

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1773 Session of 2013

INTRODUCED BY ROSS, GINGRICH, HARPER, FREEMAN AND M. DALEY, OCTOBER 17, 2013

AS REPORTED FROM COMMITTEE ON URBAN AFFAIRS, HOUSE OF REPRESENTATIVES, AS AMENDED, MARCH 11, 2014

AN ACT

1 Amending the act of July 10, 1987 (P.L.246, No.47), entitled "An
2 act empowering the Department of Community Affairs to declare
3 certain municipalities as financially distressed; providing
4 for the restructuring of debt of financially distressed
5 municipalities; limiting the ability of financially
6 distressed municipalities to obtain government funding;
7 authorizing municipalities to participate in Federal debt
8 adjustment actions and bankruptcy actions under certain
9 circumstances; and providing for consolidation or merger of
10 contiguous municipalities to relieve financial distress,"
11 further providing for title of act; providing for declaration
12 of fiscal emergencies and receivership in municipalities;
13 authorizing certain taxes; providing for disincorporation of
14 municipalities and the establishment of unincorporated
15 service districts; establishing the Unincorporated Service
16 District Trust Fund; and making extensive amendments,
17 additions and editorial changes.

18 The General Assembly of the Commonwealth of Pennsylvania
19 hereby enacts as follows:

20 Section 1. The title of the act of July 10, 1987 (P.L.246,
21 No.47), known as the Municipalities Financial Recovery Act, is
22 amended to read:

AN ACT

24 Amending the act of July 10, 1987 (P.L.246, No.47), entitled "An
25 act empowering the Department of Community [Affairs] and

1 Economic Development to assist municipalities in avoiding
2 financial distress; declare certain municipalities as
3 financially distressed; providing for the restructuring of
4 debt of financially distressed municipalities; limiting the
5 ability of financially distressed municipalities to obtain
6 government funding; authorizing municipalities to participate
7 in Federal debt adjustment actions and bankruptcy actions
8 under certain circumstances; authorizing certain taxes; and
9 providing for [consolidation or merger of contiguous
10 municipalities to relieve financial distress] the
11 disincorporation of municipalities and the establishment of
12 unincorporated service districts.

13 Section 2. Section 102 of the act, amended Oct. 20, 2011
14 (P.L.318, No.79), is amended to read:

15 Section 102. Purpose and legislative intent.

16 (a) Policy.--It is hereby declared to be a public policy of
17 the Commonwealth to foster fiscal integrity of municipalities so
18 that they provide for the health, safety and welfare of their
19 citizens; pay principal and interest on their debt obligations
20 when due; meet financial obligations to their employees, vendors
21 and suppliers; and provide for proper financial accounting
22 procedures, budgeting and taxing practices. The failure of a
23 municipality to do so is hereby determined to affect adversely
24 the health, safety and welfare not only of the citizens of the
25 municipality but also of other citizens in this Commonwealth.

26 (b) Legislative intent.--The General Assembly finds and
27 declares as follows:

28 (1) It is the intent of the General Assembly to:

29 (i) Enact procedures to provide municipalities
30 showing early indicators of financial distress with

1 training and technical and financial assistance.

2 [(i)] (ii) Enact procedures and provide powers and
3 guidelines to ensure fiscal integrity of municipalities
4 while leaving principal responsibility for conducting the
5 governmental affairs of a municipality, including
6 choosing the priorities for and manner of expenditures
7 based on available revenues, to the charge of its elected
8 officials, consistent with the public policy set forth in
9 this section.

10 [(ii)] (iii) Enact procedures for the adjustment of
11 municipal debt by negotiated agreement with creditors.

12 [(iii)] (iv) Provide for the exercise of the
13 Commonwealth's sovereign and plenary police power in
14 emergency fiscal conditions to protect the health, safety
15 and welfare of a municipality's citizens when local
16 officials are unwilling or unable to accept a solvency
17 plan developed for the benefit of the [community]
18 municipality.

19 (v) Provide for the exercise of the Commonwealth's
20 sovereign and plenary power to establish and abolish
21 local government units and provide essential services in
22 areas of this Commonwealth in which the fiscal integrity
23 of existing local government units cannot be sustained.

24 (2) Changing and deteriorating economic conditions,
25 developing technologies and attendant unemployment erode
26 local tax bases and threaten essential municipal services.
27 Under such circumstances, such distressed governmental units
28 may no longer be viable and that the citizens of those
29 communities should be granted the opportunity in accordance
30 with law to voluntarily consolidate or merge their

1 municipalities with other municipalities in an effort to
2 allow municipal boundaries to reflect the geographic and
3 economic realities of a distressed area, to merge a common
4 community of interest, to take advantage of economies of
5 scale in providing services and to create an expanded revenue
6 base to provide necessary public services to the citizens of
7 financially distressed municipalities.

8 (3) Policies of certain municipalities are so
9 ineffective and the financial conditions so severe that the
10 provision of vital and necessary services is threatened.

11 (4) Sustained failure of a municipality to enact or
12 implement a fiscal plan to adequately address or prevent
13 insolvency after repeated opportunities to do so:

14 (i) constitutes a fiscal emergency; and

15 (ii) signifies:

16 (A) a breakdown in the function of municipal
17 government;

18 (B) a dereliction of its elected officials'
19 paramount public duty to safeguard the health, safety
20 and welfare of its citizens; and

21 (C) a threat to the fiscal stability of
22 neighboring communities.

23 (5) Pursuant to the Commonwealth's paramount right and
24 duty to maintain law and order and protect and preserve the
25 health, safety and welfare of its citizens and ensure
26 compliance with this act under Article IX of the Constitution
27 of Pennsylvania, the Governor is authorized to act in the
28 face of a fiscal emergency under paragraph (4) (i) and
29 dereliction of official duty under paragraph (4) (ii) (B).

30 (6) Municipalities may face such deteriorated economic

1 conditions that all reasonable efforts to restore economic
2 viability have failed and merger or consolidation cannot
3 occur through any means provided by law. It is the intent of
4 the General Assembly that, for municipalities incapable of
5 continuing to function as general purpose units of local
6 government, procedures exist to ensure the provision of
7 essential and vital public services to the residents of those
8 areas absent a functioning municipal government.

9 Section 3. Section 103 of the act, repealed Oct. 13, 1994
10 (P.L.596, No.90) and added July 5, 2012 (P.L.1104, No.133), is
11 amended to read:

12 Section 103. Definitions.

13 The following words and phrases when used in this act shall
14 have the meanings given to them in this section unless the
15 context clearly indicates otherwise:

16 "Arbitration settlement." An adjustment or settlement of a
17 collective bargaining agreement or dispute. The term includes a
18 final or binding arbitration award or other determination.

19 "Authority." A municipal authority, parking authority or any
20 other authority or corporate entity that is directly or
21 indirectly controlled by a distressed municipality or to which a
22 distressed municipality has power of appointment.

23 "Basis of accounting." Revenues and expenditures may be
24 recognized on the cash, modified accrual or full accrual basis
25 of accounting, provided that basis is applied consistently
26 throughout the fiscal periods reported for evaluation purposes.

27 "Chief executive officer." Mayor in a mayor-council form of
28 government or manager in a council-manager form of government of
29 a city operating under an optional form of government pursuant
30 to the act of July 15, 1957 (P.L.901, No.399), known as the

1 Optional Third Class City Charter Law; a mayor of a city of the
2 first class under the act of April 21, 1949 (P.L.665, No.155),
3 known as the First Class City Home Rule Act; or an individual
4 serving in such capacity as designated by a home rule charter or
5 optional plan pursuant to the act of April 13, 1972 (P.L.184,
6 No.62), known as the Home Rule Charter and Optional Plans Law.

7 "Claim." Right to payment, whether or not the right is
8 reduced to judgment, liquidated, unliquidated, fixed,
9 contingent, matured, unmatured, disputed, undisputed, legal,
10 equitable, secured or unsecured; or right to an equitable remedy
11 for breach of performance if the breach gives rise to a right to
12 payment, whether or not the right to an equitable remedy is
13 reduced to judgment, fixed, contingent, matured, unmatured,
14 disputed, undisputed, secured or unsecured.

15 "Commonwealth agency." The Governor and the departments,
16 boards, commissions, authorities and other officers and agencies
17 of this Commonwealth, whether or not subject to the policy
18 supervision and control of the Governor.

19 "Creditor." An individual, partnership, corporation,
20 association, estate, trust, governmental unit or the governing
21 board of a pension fund of a municipality that has a claim
22 against a municipality.

23 "Deficit." The excess of expenditures over revenues, stated
24 as a percentage of revenue, during an accounting period. This
25 calculation shall include all governmental fund types and all
26 proprietary fund types, but shall exclude all fiduciary fund
27 types of the municipality.

28 "Department." The Department of Community [Affairs] and
29 Economic Development of the Commonwealth.

30 "Expenditures." Reductions in fund equity, including current

1 operating expenses that require the use of fund equity, debt
2 service and capital outlays. The term shall not include
3 interfund transfers.

4 "Fund equity." Excess of assets of a fund over its
5 liabilities.

6 "Governing body." The council in cities, boroughs and
7 incorporated towns; the board of commissioners in counties; the
8 board of commissioners in townships of the first class; the
9 board of supervisors in townships of the second class; or the
10 legislative policy-making body in home rule municipalities.

11 "Matured claim." A claim that has been reduced to judgment
12 or liquidated in amount by agreement for a period of 90 days
13 prior to the filing of a petition to commence fiscal distress
14 proceedings under this act.

15 "Municipal record." A financial record [and] or document of
16 a municipality or of [an authority incorporated by a
17 municipality, excluding confidential] an authority or other
18 corporate entity which directly or indirectly performs a
19 governmental function on behalf of the municipality, is directly
20 or indirectly controlled by the municipality or to which the
21 municipality has direct or indirect power of appointment or has
22 directly or indirectly pledged or designated the municipality's
23 revenues or the municipality's credit. The term does not
24 include:

25 (1) Confidential information relating to personnel
26 matters and matters relating to the initiation and conduct of
27 investigations of violations of law. To the extent such
28 information is included in a financial record or document
29 otherwise subject to this definition, it shall be redacted
30 and the remainder subject to disclosure as otherwise provided

1 by this act.

2 (2) A financial record or document in the custody or
3 control of an entity other than a municipality, municipal
4 authority or other authority, except if the document relates
5 to services or governmental functions performed by the
6 municipality, municipal authority or on behalf of the
7 municipality or municipal authority, or the revenues or
8 credit of the municipality or a municipal authority.

9 "Municipality." Every county, city, borough, incorporated
10 town, township and home rule municipality.

11 "Plan" or "recovery plan." A recovery plan developed under
12 this act.

13 "Revenues." Additions to fund equity other than from
14 interfund transfers, proceeds of debt and proceeds of
15 disposition of general fixed assets.

16 "Secretary." The Secretary of Community [Affairs] and
17 Economic Development of the Commonwealth.

18 Section 4. Section 121(a), ~~(b), (c) and (h)~~ (B) AND (C) of <--
19 the act are amended to read:

20 Section 121. Powers and duties of department.

21 (a) Compile financial data.--

22 (1) A power and duty of the department shall be to
23 maintain accurate and current information and data on the
24 fiscal status of municipalities to determine if criteria set
25 forth in section 201 exist and, if so, whether the existence
26 of those factors validly indicates fiscal distress.

27 (2) In compiling the information and data, the
28 department shall mail, before January 1 of each year, a
29 Survey of Financial Condition form to each municipality
30 applicable to the municipality's prior fiscal year.

1 (i) The survey shall seek information necessary to
2 determine the fiscal status of a municipality, shall be
3 concise to facilitate prompt response and shall contain
4 an attestation clause to be signed by the presiding
5 officer of the municipality's governing body. [The actual
6 survey form shall not exceed two pages in length.]

7 (ii) The survey shall be provided to the municipal
8 clerk or municipal secretary along with tax information
9 forms in accordance with law.

10 (iii) The survey shall include information based on
11 the criteria specified in section 201.

12 (iv) The survey shall include information relating
13 to the basis of accounting utilized by municipalities.

14 (b) Assess data.--A power and duty of the department shall
15 be to apply the criteria of section 201 to data and information
16 on the fiscal status of municipalities to assess the validity
17 and applicability of an indication of municipal financial
18 distress. In assessing validity and applicability, the
19 department shall undertake a review process, including, but not
20 limited to, consultation, correspondence and visits with a
21 municipality which appears to be financially distressed,
22 notwithstanding the provisions of section 2501-C(e) and (f) of
23 the act of April 9, 1929 (P.L.177, No.175), known as The
24 Administrative Code of 1929, which limits department
25 intervention to incidences when such is requested by the
26 municipality. If the department [assesses] determines that a
27 municipality needs assistance to correct minor fiscal problems,
28 the department shall offer appropriate recommendations,
29 including a recommendation that the municipality submit an
30 application as provided in Chapter 1-A. If the municipality

1 adopts those recommendations, the department need take no
2 further action.

3 (c) Notify agencies of determination.--Upon the making of a
4 determination by the secretary that a municipality is distressed
5 pursuant to section 203(f), the department shall immediately
6 notify the heads of all Commonwealth agencies of the
7 determination. The department shall, by January 1 of each year
8 thereafter, notify the heads of all Commonwealth agencies of the
9 priority funding requirement for distressed municipalities as
10 provided in section 282.

11 * * *

12 ~~(h) Promulgate rules and regulations. The department shall <--~~
13 ~~{promulgate}:~~

14 ~~(1) Within 90 days of the effective date of this~~
15 ~~paragraph, and with the assistance of the Department of~~
16 ~~Revenue, promulgate rules and regulations for the~~
17 ~~administration and enforcement of a tax as provided in~~
18 ~~section 124. The rules and regulations shall include:~~

19 ~~(i) The form and contents of a return.~~

20 ~~(ii) A method for the reexamination and correction~~
21 ~~of returns and payments alleged or found to be incorrect,~~
22 ~~or as to which an overpayment is claimed or found to have~~
23 ~~occurred.~~

24 ~~(iii) Rules for appeals of vendors aggrieved by any~~
25 ~~decision of the tax collector and for review of petitions~~
26 ~~for abatement of interest and penalties, compromise and~~
27 ~~refund of the tax in a manner consistent with 53 Pa.C.S.~~
28 ~~Ch. 84 Subch. C (relating to local taxpayer bill of~~
29 ~~rights). For purposes of the application of 53 Pa.C.S.~~
30 ~~Ch. 84 Subch. C, the tax levied in accordance with~~

1 ~~section 124 shall be considered an "eligible tax" and~~
2 ~~vendors shall be considered "taxpayers" as those terms~~
3 ~~are defined in 53 Pa.C.S. § 8422 (relating to~~
4 ~~definitions).~~

5 ~~(2) Promulgate other rules and regulations necessary to~~
6 ~~implement the provisions of this act.~~

7 Section 5. Section 122 of the act is amended by adding a
8 subsection to read:

9 Section 122. Duties of Commonwealth agencies.

10 * * *

11 (c) Waiver of certain administrative mandates.--

12 (1) Notwithstanding any provision of law and at the
13 request of the coordinator or receiver, a Commonwealth agency
14 may exempt a distressed municipality from the application of
15 a regulatory requirement, if the following conditions are
16 satisfied:

17 (i) The regulatory requirement is not expressly
18 required by Federal law or regulation, or an act of the
19 Commonwealth, and is not related to the rights or terms
20 and conditions of employment by the municipality.

21 (ii) The waiver of the regulatory mandate will not
22 likely affect public health and safety.

23 (2) It is the intent of this subsection that distressed
24 municipalities be considered for relief from regulatory
25 mandates that, due to financial distress or the
26 implementation of recovery measures, are unduly burdensome on
27 the municipality and would not undermine the regulatory
28 purposes of the agency if waived.

29 Section 6. ~~Section 123~~ SECTIONS 123 AND 141 of the act, <--
30 amended July 11, 1996 (P.L.645, No.108), ~~is~~ ARE amended to read: <--

1 Section 123. Powers and duties of municipalities.

2 (a) File completed survey.--On or before March 15 of each
3 year, every municipality shall return to the department a
4 completed Survey of Financial Conditions referred to in section
5 121(a). No municipality shall receive its allotted payments
6 pursuant to the act of June 1, 1956 (1955 P.L.1944, No.655),
7 referred to as the Liquid Fuels Tax Municipal Allocation Law,
8 unless it complies with the provisions of this section,
9 notwithstanding a provision of law to the contrary, including
10 any provisions which require payment prior to March 15, and the
11 Department of Transportation may not disburse funds to a
12 municipality pursuant to the Liquid Fuels Tax Municipal
13 Allocation Law until notified by the department that the
14 municipality has complied with the provisions of this section.

15 (b) File applications for grants and loans.--A financially
16 distressed municipality may apply to the secretary for emergency
17 financial aid in the form of a grant or loan pursuant to Chapter
18 3.

19 (c) Right to petition court for tax increase.--

20 (1) After a municipality has adopted a plan under
21 [Subchapter C] Subchapters C and C.1 of Chapter 2, it may
22 petition the court of common pleas of the county in which the
23 municipality is located to increase its rates of taxation for
24 earned income of residents and nonresidents, real property,
25 or both, beyond maximum rates provided by law.

26 (1.1) In addition to the right under paragraph (1), a
27 municipality may petition the court to increase the rate of a
28 local services tax and levy a payroll preparation tax as
29 provided in subsection (d) or an optional alcohol consumption
30 tax as provided in section 124.<--

1 (2) If a tax increase above existing limits is granted
2 by the courts or a tax is approved as provided in subsection
3 (d) or section 124, the increase shall be effective for a <--
4 period of one year. The one-year increase shall run from the
5 date specified in the petition filed with the court or, if no
6 such date is specified, from the beginning of the current
7 fiscal year of the municipality. Subsequent increases in
8 rates of taxation or the imposition of a tax under subsection
9 (d) or section 124 may be granted by the court upon annual <--
10 petition of the municipality until the termination date of
11 the plan adopted by the municipality under Chapter 2. The
12 additional amount of taxes resulting from the petition shall
13 not be subject to sharing with a school district.

14 (3) A petition filed by a city of the second class A or
15 a home rule municipality that was previously a city of the
16 second class A under this subsection may not include an
17 increase in a tax on nonresident income unless the
18 municipality certifies to the court, with regard to those
19 provisions of the plan having a measurable fiscal impact,
20 that:

21 (i) the municipality has substantially implemented
22 the provisions which are within the authority of the
23 chief executive officer or governing body, including, but
24 not limited to, provisions of the plan that call for
25 increasing existing tax rates levied on residents and
26 increasing fees charged by the municipality;

27 (ii) the municipality has taken those actions
28 required to obtain the approval of other parties for
29 those provisions which may not be implemented without
30 such approval, including, but not limited to, the

1 approval of a court, local electors or any collective
2 bargaining unit; and

3 (iii) the additional income from the aforementioned
4 actions is insufficient to balance the municipal budget,
5 necessitating additional revenue from an increase in the
6 tax on nonresident income.

7 (d) Additional tax options and limitations.--After a
8 municipality has adopted a plan under Subchapter C or C.1 of
9 Chapter 2 and with the approval of the court, it may adopt an
10 ordinance imposing any of the following: <--

11 (1) A local services tax pursuant to Chapter 3 of the
12 act of December 31, 1965 (P.L.1257, No.511), known as The
13 Local Tax Enabling Act, at a rate not to exceed \$156. A
14 municipality adopting an ordinance under this paragraph shall
15 be prohibited from imposing any additional tax on earned
16 income pursuant to subsection (c). A municipality levying the
17 local services tax at a rate in excess of \$52 shall, by
18 ordinance, exempt any person from the local services tax
19 whose total earned income and net profits from all sources
20 within the municipality is less than \$15,600 for the calendar
21 year in which the local services tax is levied.

22 (2) A payroll preparation tax pursuant to section 303 of
23 the Local Tax Enabling Act. A municipality imposing a tax
24 under this paragraph may levy a tax at a rate as provided in
25 this section and as certified by the coordinator and approved
26 by the court. When imposing a tax under this paragraph the
27 municipality may impose the tax not to exceed a rate that is
28 sufficient to produce revenues equal to revenues collected as
29 a result of a business privilege tax and a mercantile tax
30 under Chapter 3 of the Local Tax Enabling Act in the

1 preceding fiscal year. A municipality adopting a payroll
2 preparation tax under this paragraph shall suspend the levy
3 of a business privilege tax or mercantile tax until
4 expiration of the payroll preparation tax authorized under
5 this paragraph at which time the municipality may resume its
6 levy of the business privilege tax or mercantile tax. The
7 authority provided by this paragraph is limited to those
8 municipalities levying a business privilege or mercantile
9 tax, on a flat-rate or millage basis, in the year of the
10 filing of a petition as provided in subsection (c).

11 ~~(3) A tax on the retail sale of alcohol as provided in~~ <--
12 ~~section 124. The authority provided in this paragraph:~~

13 ~~(i) Shall be granted in lieu of any increased rate~~
14 ~~in a local services tax as provided in paragraph (1) or~~
15 ~~any increase in earned income taxes as provided in~~
16 ~~subsection (c).~~

17 ~~(ii) Shall not apply to a municipality in which any~~
18 ~~portion thereof is the situs of a tax levied by another~~
19 ~~political subdivision on the retail sale of alcohol and~~
20 ~~which tax is in effect on the date of a petition as~~
21 ~~provided in subsection (c) (1.1).~~

22 Section 7. The act is amended by adding a section to read:
23 ~~Section 124. Optional distressed municipality alcohol~~
24 ~~consumption tax.~~

25 ~~(a) Authority to levy and collect tax. For the tax year~~
26 ~~beginning on or after the effective date of this section, the~~
27 ~~governing body of every municipality authorized to do so by the~~
28 ~~court pursuant to section 123(c) (1.1), as recommended by the~~
29 ~~coordinator, shall be authorized to levy and collect a tax in~~
30 ~~the manner and at the rates provided in this section. Except as~~

1 ~~otherwise limited by section 123, the tax shall be in addition~~
2 ~~to any other tax every such municipality is authorized to levy~~
3 ~~and collect under any existing law. The taxes, interest and~~
4 ~~penalties collected under the provisions of this section shall~~
5 ~~be used by every such municipality for general purposes as~~
6 ~~provided for pursuant to this section.~~

7 ~~(b) Tax and rate. The governing body of a municipality may~~
8 ~~authorize the levy of a tax imposed upon each separate sale at~~
9 ~~retail within the municipality at a rate of not more than 10% of~~
10 ~~the sale price, which tax shall be collected by the vendor from~~
11 ~~the purchaser and shall be paid over by the vendor to the tax~~
12 ~~collector as provided in this section.~~

13 ~~(c) Returns and payment of tax. Every vendor required to~~
14 ~~collect and remit the tax to the tax collector shall file~~
15 ~~monthly returns with respect to such tax on or before the 25th~~
16 ~~day of the month succeeding the month with respect to which the~~
17 ~~return is made. The returns shall be filed with the tax~~
18 ~~collector on forms as established by the department and provided~~
19 ~~by the tax collector. Every vendor filing a return shall pay~~
20 ~~over to the tax collector the amount of tax shown as due thereon~~
21 ~~at the time the return is filed. The failure of any vendor to~~
22 ~~procure or receive a return form shall not excuse the vendor~~
23 ~~from filing a return and paying over the tax due.~~

24 ~~(d) Designation of tax collector and compensation. The~~
25 ~~governing body shall by resolution designate the tax collector~~
26 ~~and establish tax collector compensation at a rate negotiated~~
27 ~~between the tax collector and the governing body. The rate of~~
28 ~~compensation shall not exceed 5% of the revenue collected from~~
29 ~~the tax.~~

30 ~~(e) Powers and duties of tax collector. The tax collector~~

1 ~~shall:~~

2 ~~(1) Collect and receive the taxes, interest and~~
3 ~~penalties authorized by this section.~~

4 ~~(2) Enforce the provisions of this section and such~~
5 ~~rules and regulations governing the administration and~~
6 ~~enforcement of the provisions of this section as promulgated~~
7 ~~in accordance with section 121.~~

8 ~~(3) Examine the books, papers and records of any vendor~~
9 ~~in order to verify the accuracy of any return filed or~~
10 ~~ascertain the amount of tax due. Every vendor shall give to~~
11 ~~the tax collector the means, facilities and opportunities for~~
12 ~~the examinations. The tax collector may examine any person~~
13 ~~concerning the amount of tax due and may compel the~~
14 ~~production of books, papers and records and the attendance of~~
15 ~~all persons before the tax collector, whether as parties or~~
16 ~~witnesses, whom the tax collector believes to have knowledge~~
17 ~~relating to the amount of tax due.~~

18 ~~(f) Review and appeal. The governing body of the~~
19 ~~municipality, in a manner consistent with 53 Pa.C.S. Ch. 84~~
20 ~~Subch. C (relating to local taxpayer bill of rights) and rules~~
21 ~~and regulations promulgated in accordance with section 121,~~
22 ~~shall provide for appeals of persons aggrieved by any decision~~
23 ~~of the tax collector and review petitions for abatement of~~
24 ~~interest and penalties for compromise and refund of taxes~~
25 ~~authorized by this section.~~

26 ~~(g) Interest and penalties.~~

27 ~~(1) Any vendor who fails to pay over to the tax~~
28 ~~collector any amount of tax due on or before the last date~~
29 ~~prescribed for payment shall pay interest on such amount at~~
30 ~~the rate of 0.5% per month or fraction thereof from such last~~

~~date to the date paid, without regard to any extension of time for payment.~~

~~(2) Any vendor who fails to pay over to the tax collector any amount of tax due on or before the last date prescribed for payment shall be liable to pay a penalty of 1% per month or fraction thereof from such last date to the date paid.~~

~~(3) The interest and penalties provided for in this section shall be added to the tax assessed and collected at the same time, in the same manner and as part of the tax.~~

~~(h) Suit for collection.~~

~~(1) The governing body of the municipality may sue for the recovery of all taxes due under this section not paid when due. Any suit to recover any tax, together with interest and penalties, authorized under this section, from any vendor, shall begin within six years after the tax is due or within six years after a return has been filed, whichever date is later.~~

~~(2) The six year limitation period specified in paragraph (1) shall not apply:~~

~~(i) Where a vendor has failed to file a report required under the provisions of this section.~~

~~(ii) Where an examination of a return filed by a vendor and of other evidence relating to such return reveals a fraudulent evasion of taxes, including, but not limited to, substantial understatement of sales at retail taxed under this section.~~

~~(3) Where suit is brought for the recovery of such tax, the vendor shall be liable for, and the tax collector shall collect, in addition to the tax assessed against the vendor,~~

~~the costs of collection and the interest and penalties provided under this section.~~

~~(i) Criminal penalties.—~~

~~(1) Any vendor who willfully makes any false or untrue statement on the vendor's return shall be guilty of a misdemeanor and, upon conviction thereof, shall be sentenced to pay a fine of not more than \$300 or to imprisonment for not more than 90 days, or both.~~

~~(2) Any vendor who willfully fails or refuses to appear before the collector in person with the vendor's books, records or accounts for examination when required under the provisions of this section to do so or who willfully refuses to permit inspection of the books, records or accounts in the vendor's custody or control when the right to make the inspection by the collector is requested, shall be guilty of a misdemeanor and, upon conviction thereof, shall be sentenced to pay a fine of not more than \$300 or to imprisonment for not more than 90 days, or both.~~

~~(3) Any vendor who willfully fails or refuses to file a return required by this section or to collect and pay over to the tax collector any tax imposed under this section shall be guilty of a misdemeanor and, upon conviction thereof, shall be sentenced to pay a fine of not more than \$300 or to imprisonment for not more than 90 days, or both.~~

~~(j) Liquor Code violations.— Any vendor who willfully fails or refuses to file a return required by this section or to collect and pay over to the tax collector any tax imposed under this section commits an unlawful act under section 493 of the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code. The governing body of the municipality may notify the Liquor~~

1 ~~Control Board in writing that a vendor has violated this~~
2 ~~subsection and request that the vendor be subject to the~~
3 ~~enforcement provisions of the Liquor Code.~~

4 ~~(k) Cumulative penalties and remedies. It is hereby~~
5 ~~declared to be the purpose of this section to provide cumulative~~
6 ~~penalties and remedies to ensure compliance by vendors with the~~
7 ~~requirements of this section.~~

8 ~~(l) Definitions. As used in this section, the following~~
9 ~~words and phrases shall have the meanings given to them in this~~
10 ~~subsection unless the context clearly indicates otherwise:~~

11 ~~"Person." Any individual, limited partnership, partnership,~~
12 ~~association or corporation. Whenever used in a provision of this~~
13 ~~section prescribing or imposing a fine or imprisonment or both,~~
14 ~~the term as applied to "limited partnership" or "partnership,"~~
15 ~~shall mean the partners thereof, as applied to "association,"~~
16 ~~the members thereof, and as applied to "corporation," the~~
17 ~~officers thereof, except that, as to an incorporated club, the~~
18 ~~term shall mean such individual or individuals who, under the~~
19 ~~bylaws of the club, has jurisdiction over the possession and~~
20 ~~sale of liquor in the club.~~

21 ~~"Purchaser." A person who acquires liquor or malt and brewed~~
22 ~~beverages through sale at retail.~~

23 ~~"Sale at retail." Any transfer at retail for a consideration~~
24 ~~in any manner or by any means whatsoever of liquor and malt and~~
25 ~~brewed beverages, but the term shall not include any transaction~~
26 ~~which was or is subject to tax by the Commonwealth under Article~~
27 ~~II of the act of March 4, 1971 (P.L.6, No.2), known as the Tax~~
28 ~~Reform Code of 1971.~~

29 ~~"Tax collector." The entity responsible for the collection~~
30 ~~of earned income taxes under the act of December 31, 1965~~

1 ~~(P.L.1257, No.511), known as The Local Tax Enabling Act.~~

2 ~~"Tax year." The 12 month period corresponding to the fiscal~~
3 ~~year of a municipality imposing a tax under this section and the~~
4 ~~year for which a tax is levied under this section.~~

5 ~~"Vendor." Any person maintaining a place of business in any~~
6 ~~municipality under this section and licensed by the Commonwealth~~
7 ~~to sell liquor or malt and brewed beverages, the sale of which~~
8 ~~is subject to the tax authorized by this section. The term does~~
9 ~~not include an employee who, in the ordinary scope of~~
10 ~~employment, renders services to his employer in exchange for~~
11 ~~wages or salary.~~

12 Section 8. ~~Section 141 of the act, amended July 11, 1996-~~
13 ~~(P.L.645, No.108), is amended to read:~~

14 Section 141. Jurisdiction of court of common pleas.

15 (a) Increases in tax rates.--The court of common pleas of
16 each county shall have jurisdiction to hear a petition filed by
17 a municipality which has adopted a [final] plan pursuant to
18 Subchapter C or C.1 of Chapter 2 to increase rates of taxation
19 for earned income on residents and nonresidents, real property,
20 or both, beyond maximum rates provided by law in accordance with
21 ~~sections 123 and 124~~ SECTION 123. The court may extend annually <--
22 the increased taxing powers of the municipality until the
23 termination date of the plan adopted by the municipality
24 pursuant to Chapter 2.

25 (b) Involuntary compromises of delinquent taxes.--The court
26 of common pleas of each county may hear a petition filed by at
27 least two taxing authorities having taxing power over the
28 properties within a municipality which has adopted a [final]
29 plan pursuant to Subchapter C or C.1 of Chapter 2 if the
30 petition requests a compromise of delinquent taxes due on a

1 property in that municipality. The court may order the property
2 to be sold at a sheriff's sale and the proceeds to be divided
3 among all authorities which are owed taxes for the property
4 sold. If the property is sold at sheriff's sale and if the
5 proceeds are insufficient to satisfy tax liens on the property,
6 the court shall order a proration of the sale proceeds among the
7 taxing authorities which fixed the liens.

8 Section 9 7. The act is amended by adding a chapter to read: <--

9 CHAPTER 1-A

10 EARLY INTERVENTION PROGRAM

11 SUBCHAPTER A

12 PRELIMINARY PROVISIONS

13 Section 101-A. Definitions.

14 The following words and phrases when used in this chapter
15 shall have the meanings given them in this section unless the
16 context clearly indicates otherwise:

17 "Center." The Governor's Center for Local Government
18 Services of the Department of Community and Economic Development
19 of the Commonwealth.

20 "Keystone Principles." The Keystone Principles and Criteria
21 for Growth Investment and Resource Conservation adopted May 31,
22 2005, by the Economic Development Cabinet to foster and measure
23 the effectiveness of sustainable economic development and
24 conservation of resources through the investment of Commonwealth
25 funds in its municipalities.

26 "Program." The Early Intervention Program established by
27 this chapter.

28 Section 102-A. Program objectives.

29 The Early Intervention Program established by this chapter
30 provides a municipality with a preemptive step for the purpose

1 of seeking guidance and assistance from the Commonwealth to
2 develop long-term financial management, administrative, service
3 delivery and economic development strategies that the
4 municipality can implement to avert a fiscal crisis and provide
5 fiscal stability. The specific objectives of the Early
6 Intervention Program include the following and are meant to:

7 (1) Provide the resources to assist a municipality in
8 identifying, prioritizing and addressing the financial
9 difficulties confronting it, while ensuring its short-term
10 and long-term goals and objectives are adequately taken into
11 account.

12 (2) Engage in a management review of its operations and
13 provide recommendations that will enhance financial
14 administration, management and service delivery of a
15 municipality.

16 (3) Strengthen the ability of a municipality to develop,
17 adopt, implement and monitor multiyear financial management
18 plans and to incorporate the process into its annual budget
19 process.

20 (4) Implement a system of multiyear revenue and
21 expenditure trend analysis, monitoring and forecasting so
22 that a municipality can better anticipate and plan for future
23 financial circumstances.

24 (5) Promote multimunicipal and regional planning,
25 cooperation strategies and cost-sharing opportunities between
26 two or more municipalities.

27 (6) Support the adoption by a municipality of best
28 management practices and efficiency measures to increase the
29 financial stability of a municipality.

30 (7) Further the integration of sound community and

1 economic development strategies to encourage the economic
2 growth of the tax base of a municipality over a multiyear
3 period.

4 SUBCHAPTER B

5 ADMINISTRATIVE PROVISIONS

6 Section 103-A. Authorization.

7 The Early Intervention Program is established to authorize
8 the center to provide guidance and assistance through grants to
9 a municipality seeking to ensure fiscal stability by developing
10 and implementing long-term financial, managerial and economic
11 development strategies.

12 Section 104-A. Grants.

13 (a) General rule.--A grant may be awarded by the center to a
14 municipality or two or more municipalities cooperating together
15 to ensure fiscal stability through the development and
16 implementation of long-term financial, managerial and economic
17 development strategies in an amount not exceeding \$200,000
18 during the first fiscal year that commences on the effective
19 date of this section, adjusted for inflation in subsequent years
20 by an amount not to exceed an annual cost-of-living adjustment
21 calculated by applying the percentage change in the Consumer
22 Price Index immediately prior to the date the adjustment is due
23 to take effect. To be eligible for a grant for implementation
24 funding, a municipality must meet the basic training
25 requirements established in guidelines developed by the center.

26 (b) Match.--The grant amount is subject to a 50% financial
27 match by the municipality to which the grant was provided,
28 unless the center determines a match by the municipality of a
29 lesser amount not less than 10% is warranted. The center may
30 authorize any portion of the municipality's financial match to

1 be offset by an in-kind match.

2 (c) Eligible activities.--A grant shall be used for the
3 following eligible activities:

4 (1) The development of multiyear financial management
5 plan for a municipality.

6 (2) The development of multimunicipal or regional
7 intergovernmental cooperation initiatives and cost-sharing
8 strategies.

9 (3) A study to improve the management and operational
10 practices and financial administration procedures of a
11 municipality.

12 (4) A merger or consolidation feasibility study.

13 (5) The implementation of any of the eligible activities
14 identified in paragraphs (1) through (4).

15 (6) Training and capacity-building activities that meet
16 basic requirements established in guidelines developed by the
17 center which assist the municipality in the implementation of
18 plan recommendations.

19 (7) Contracts with professional consultants to develop
20 and implement recommendations related to eligible activities.

21 Section 105-A. Application.

22 A program application must be submitted by the applicant
23 municipality on a form prescribed by the department utilizing
24 the electronic single application format and include or
25 demonstrate all of the following:

26 (1) The name and address of the municipality or, in the
27 case of a multimunicipal application, the municipalities.

28 (2) The name of a contact person.

29 (3) The execution of a supporting resolution authorizing
30 the submission of the application and committing the

1 resources of the municipality or, in the case of a
2 multimunicipal application, municipalities.

3 (4) The single application shall be signed by the
4 authorized officer of the municipality or, in the case of a
5 multimunicipal application, municipalities.

6 (5) Any other information required by the department.
7 Section 106-A. Evaluation criteria.

8 The center shall evaluate a program application on the basis
9 of municipal financial characteristics and the quality of the
10 proposed program, including the extent to which the program is
11 estimated to improve the administrative, operational and
12 financial management capacity of the applicant municipality.

13 The following factors shall be considered in the evaluation:

14 (1) The current and projected financial condition of the
15 municipality.

16 (2) The economic and demographic condition of the
17 municipality.

18 (3) The proactive measures the municipality has taken to
19 manage its finances in a responsible manner, including
20 attempts to reduce expenditures, increase revenues, adopt
21 sound management practices, establish municipal priorities
22 and adhere to generally accepted financial management, budget
23 and financial reporting standards.

24 (4) The extent to which the municipality has
25 demonstrated its willingness and commitment to engage in a
26 multimunicipal or regional strategy and has examined whether
27 certain municipal services can be provided through a council
28 of governments, a county government or other structure.

29 (5) The extent to which the municipality has
30 demonstrated its willingness and commitment to improve its

1 financial and administrative operation through the adoption
2 and implementation of a multiyear financial management plan.

3 (6) Where it has received assistance and funding from
4 the department, past performance by the municipality.

5 (7) Where applicable, the elements of the Keystone
6 Principles shall be included as part of the evaluation
7 criteria.

8 (8) Any other factors the center considers relevant.

9 Section 107-A. Award.

10 The secretary shall announce by letter applications selected
11 for funding. The contact person specified in the application
12 shall be sent the offer letter. All funding decisions shall be
13 made subject to the availability of funds.

14 Section 108-A. Guidelines.

15 The department shall establish guidelines consistent with
16 this chapter, particularly the program requirements and
17 measurements to ensure a municipality is provided with adequate
18 guidance. The program shall include a requirement of a financial
19 audit of the municipality, prepared by an independent accountant
20 or firm, for the fiscal year immediately preceding the
21 application for funds under this chapter. The department may
22 establish guidelines for the audit, and the requirement may be
23 satisfied by any previous audit prepared in accordance with the
24 guidelines.

25 ~~Section 10~~ 8. Section 203(c) of the act, amended June 30, <--
26 1992 (P.L.336, No.69), is amended to read:

27 Section 203. Procedure for determination.

28 * * *

29 (c) Investigation.--After receiving the request but before
30 the public hearing, the secretary may make an investigation into

1 the financial affairs of the municipality. The results of the
2 investigation or any study previously conducted by the
3 department under Chapter 1-A or section 121 shall be placed in
4 the record of the public hearing.

5 * * *

6 Section ~~11~~ 9. Sections 221(d) and (e), 222 and 223 of the <--
7 act are amended to read:

8 Section 221. Designation.

9 * * *

10 (d) Duties.--The coordinator shall [prepare and administer a
11 plan designed to relieve the financial distress of the
12 municipality which he has been appointed to serve.]:

13 (1) Present, at a public meeting within 45 days of the
14 execution of the contract between the department and the
15 coordinator, a list of the coordinator's preliminary
16 findings, as to the financial condition of municipality. The
17 list of findings shall include, but is not limited to, a
18 quantification of all operating deficits for the current
19 fiscal year and a projection of revenues and operating
20 expenses for the next three fiscal years, all outstanding
21 debt obligations, the cost and term of all outstanding
22 contracts, and other relevant information.

23 (2) Solicit, not later than the date of the
24 coordinator's presentation described in paragraph (1),
25 comments relating to the issues associated with the
26 municipality's distress from such persons and entities who:

27 (i) have participated in the early intervention
28 process;

29 (ii) have provided consultation on behalf of the
30 municipality relating to the issues associated with its

1 distress; or

2 (iii) are elected officials or employees of the
3 municipality or labor organizations representing
4 employees of the municipality.

5 (3) Consider all comments submitted within 30 days of
6 the coordinator's presentation described in paragraph (1)
7 before preparing and administering a plan designed to relieve
8 the financial distress of the municipality which the
9 coordinator has been appointed to serve.

10 (e) Powers.--The coordinator may [apply]:

11 (1) Apply for grants and loans pursuant to Chapter 3, as
12 [he] the coordinator deems necessary.

13 (2) Investigate the tax-exempt status of any property
14 within a distressed municipality and advise the governing
15 body of the municipality to appeal the assessment or exempt
16 status of property within the distressed municipality.

17 (3) Solicit and negotiate payments in lieu of taxes from
18 institutions of public charity and other tax-exempt property
19 owners in the municipality.

20 Section 222. Access to information.

21 (a) General rule.--The coordinator shall have full access to
22 all municipal records.

23 (b) Enforcement where records in possession of official or
24 public employee.--If the coordinator believes that an official
25 or employee of the municipality or an authority is not answering
26 questions accurately or completely or is not furnishing
27 information requested, the coordinator may notify the official
28 or employee in writing to furnish answers to questions or to
29 furnish documents or records, or both. If the official or
30 employee refuses, the coordinator may seek a subpoena in the

1 court of common pleas to compel testimony and furnish records
2 and documents. An action in mandamus shall lie to enforce the
3 provisions of this section.

4 (c) Enforcement where records in possession of other
5 persons.--If the coordinator believes that a person is not
6 furnishing information related to municipal records and that
7 person is not subject to subsection (b), the coordinator may
8 seek a subpoena in the court of common pleas to compel testimony
9 and furnish records and documents.

10 Section 223. Public and private meetings.

11 (a) Public meetings authorized.--The coordinator may hold
12 public meetings as defined in [the act of July 3, 1986 (P.L.388,
13 No.84), known as the Sunshine Act] 65 Pa.C.S. Ch. 7 (relating to
14 open meetings), in connection with plan preparation.

15 (b) Private meetings authorized.--Notwithstanding the
16 provisions of [the Sunshine Act] 65 Pa.C.S. Ch. 7, private
17 negotiation sessions may be conducted by the coordinator between
18 the municipality and the individual creditors in an effort to
19 obtain the consent of each creditor to the proposed adjustment
20 and handling of specific claims against the municipality.

21 SECTION 10. THE ACT IS AMENDED BY ADDING A SECTION TO READ: <--
22 SECTION 224.1. PERFORMANCE OF COORDINATOR.

23 (A) REVIEW OF COORDINATOR.--BEGINNING ON JULY 1, 2015, THE
24 SECRETARY, OR HIS DESIGNEE, SHALL CONDUCT AN ANNUAL REVIEW OF
25 EACH COORDINATOR APPOINTED UNDER SECTION 221 TO ASSESS WHETHER
26 THE COORDINATOR'S PERFORMANCE HAS BEEN IN COMPLIANCE WITH THE
27 REQUIREMENTS OF THE COORDINATOR'S CONTRACT, IF ANY, AND THE
28 PROVISIONS OF THIS ACT.

29 (B) TERMINATION OF COORDINATOR.--AN UNFAVORABLE REVIEW UNDER
30 THIS SECTION MAY CONSTITUTE GROUNDS FOR TERMINATION OF THE

1 COORDINATOR'S CONTRACT FOR CAUSE.

2 Section ~~12~~ 11. Section 241 of the act, amended or added June <--
3 30, 1992 (P.L.336, No. 69) and July 5, 2012 (P.L.1104, No.133)
4 and repealed in part October 13, 1994 (P.L.596, No.90), is
5 amended to read:

6 Section 241. Contents.

7 A plan formulated by the appointed coordinator shall be
8 consistent with applicable law and shall include any of the
9 following factors which are relevant to alleviating the
10 financially distressed status of the municipality:

11 (1) Projections of revenues and expenditures for the
12 current year and the next [three] five years, both assuming
13 the continuation of present operations and as impacted by the
14 measures in the plan. The projections must include an
15 itemization of the following:

16 (i) Projected revenues, including:

- 17 (A) Local taxes.
- 18 (B) Licenses, permits and fines.
- 19 (C) Sales and rentals.
- 20 (D) Federal, State and county grants and loans.
- 21 (E) Any other sources of projected revenue.

22 (ii) Projected expenditures, including:

- 23 (A) Debt service.
- 24 (B) Workforce.
- 25 (C) Elected and executive officials.
- 26 (D) Financial management.
- 27 (E) Infrastructure costs, including highways,
28 roads and wastewater systems.
- 29 (F) Maintenance costs, including recycling and
30 trash collection, disposal and removal.

- 1 (G) Other professional services.
- 2 (H) Public safety.
- 3 (I) Community and economic development.
- 4 (J) Any other applicable expenditures.

5 (2) Recommendations which will:

6 (i) Satisfy judgments, past due accounts payable,
7 and past due and payable payroll and fringe benefits.

8 (ii) Eliminate deficits and deficit funds.

9 (iii) Restore to special fund accounts money from
10 those accounts that was used for purposes other than
11 those specifically authorized.

12 (iv) Balance the budget, avoid future deficits in
13 funds and maintain current payments of payroll, [fringe]
14 benefits and accounts through possible revenue
15 enhancement recommendations, including tax or fee
16 changes.

17 (v) Avoid a fiscal emergency condition in the
18 future.

19 (vi) Enhance the ability of the municipality to
20 negotiate new general obligation bonds, lease rental
21 debt, funded debt and tax and revenue anticipation
22 borrowing.

23 (vii) Consider changes in accounting and automation
24 procedures for the financial benefit of the municipality.

25 (viii) Propose a reduction of debt due on specific
26 claims by an amortized or lump-sum payment considered to
27 be the most reasonable disposition of each claim possible
28 for the municipality considering the totality of
29 circumstances.

30 (3) Possible changes in collective bargaining agreements

1 and permanent and temporary staffing level changes or changes
2 in organization.

3 (4) Recommended changes in municipal ordinances or
4 rules.

5 (5) Recommendations for special audits or further
6 studies.

7 (6) An analysis of whether conditions set forth in
8 section 261 exist, whether specific exclusive Federal
9 remedies could help relieve the municipality's financial
10 distress and whether filing a Federal debt adjustment action
11 under Subchapter D is deemed to be appropriate.

12 [(7) An analysis of whether the economic conditions of
13 the municipality are so severe that it is reasonable to
14 conclude that the municipality is no longer viable and should
15 consolidate or merge with an adjacent municipality or
16 municipalities.]

17 (7.1) An analysis of whether the economic conditions
18 within the municipality are so severe that it is no longer
19 viable and should consolidate or merge with an adjacent
20 municipality or municipalities in accordance with 53 Pa.C.S.
21 Ch. 7 (relating to alteration of territory or corporate
22 entity and dissolution) or disincorporate in accordance with
23 Chapter 4.

24 (8) An analysis of whether functional consolidation of
25 or privatization of existing municipal services is
26 appropriate and feasible and recommendations for where and
27 how this could be done.

28 (9) A capital budget which addresses infrastructure
29 deficiencies.

30 (10) Recommendations for greater use of Commonwealth

1 economic and community development programs.

2 (10.1) Recommendations for enhanced cooperation and
3 changes in land use planning and zoning, including regional
4 approaches that would promote economic development and
5 improve residential, commercial and industrial use
6 availability within and around the municipality.

7 (11) Notwithstanding any other provision of law, limits
8 on projected expenditures for individual collective
9 bargaining units that may not be exceeded by the distressed
10 municipality, giving due consideration to the projection of
11 revenue and expenses under paragraph (1).

12 (12) An analysis of current revenue sources and
13 recommendation to modify revenue sources, including the
14 subjects and rates of taxation of the distressed municipality
15 in accordance with ~~sections 123 and 124~~ SECTION 123. <--

16 Recommendations relating to a modification of revenue sources
17 shall be made with consideration to the effect on economic
18 development, employment and an equitable distribution of tax
19 burden. The analysis and recommendations shall be presented
20 to the court in any proceeding under ~~sections 123 and 124~~ <--
21 SECTION 123. The analysis shall address: <--

22 (i) The tax bases of current and recommended revenue
23 sources from both within and outside of the distressed
24 municipality.

25 (ii) Collection rates, methods and costs of existing
26 and, to the extent possible, proposed revenue sources,
27 including code enforcement and tax collection.

28 (iii) The current fee, charge, penalty and fine
29 provisions of municipal enactments related to municipal
30 services and police powers.

1 (iv) Revenue as defined in section 103.

2 Section ~~13~~ 12. Section 242(a) of the act, amended December <--
3 19, 1988 (P.L.1272, No.157), is amended and the section is
4 amended by adding a subsection to read:

5 Section 242. Publication.

6 (a) Filing.--Within [90] 120 days of an executed contract
7 between the department and the coordinator, the coordinator
8 shall formulate a plan for relieving the municipality's
9 financial distress and shall deliver true and correct copies of
10 it to:

11 (1) The municipal clerk or municipal secretary, who
12 shall immediately place the copy on file for public
13 inspection in the municipal office.

14 (2) The secretary.

15 (3) Each member of the municipal governing body.

16 (4) The mayor.

17 (5) The chief financial officer of the municipality.

18 (6) The solicitor of the municipal governing body.

19 (7) All parties who have petitioned the secretary under
20 section 203.

21 * * *

22 (c.1) Solicitation of comments.--The coordinator shall, no
23 later than the date of filing, solicit comments on the
24 coordinator's plan to be presented at the public meeting from
25 such persons and entities which submitted timely comments under
26 section 221(d) (2).

27 * * *

28 Section ~~13.1~~ 13. Section 245 of the act, amended December <--
29 19, 1988 (P.L.1272, No.157), is amended to read:
30 Section 245. Adoption by municipality.

1 Not later than 25 days following the coordinator's public
2 meeting, the municipal governing body shall either enact an
3 ordinance approving the implementation of the plan, including
4 enactment of necessary related ordinances and revisions to
5 ordinances, or shall reject the plan and proceed under section
6 246. If the ordinance takes effect in a municipality operating
7 under an optional plan form of government or a home rule
8 charter, the chief executive officer [may] shall issue an order
9 directing the implementation of the plan no later than seven
10 days from the enactment of the ordinance by the governing body.

11 Section 14. Section 246(d)(3) of the act is amended to read:
12 Section 246. Preparation and action on alternate plan.

13 * * *

14 (d) Review by secretary.--

15 * * *

16 (3) If the secretary is of the opinion that the plan,
17 when implemented, will not overcome the municipality's
18 financial problems, the secretary shall inform the
19 municipality of the following:

20 (i) The secretary's determination.

21 (ii) The reasons for the determination.

22 (iii) The applicability of sections 251 and 264 to
23 the municipality.

24 (iv) The applicability of Chapters 6 and 7 to the
25 municipality.

26 Section 15. Section 247(a)(4) of the act, amended June 30,
27 1992 (P.L.336, No.69), is amended to read:

28 Section 247. Plan implementation.

29 (a) Coordinator's plan.--If the coordinator's plan is
30 adopted by the municipal governing body, the coordinator shall

1 be charged with implementing his plan and shall:

2 * * *

3 (4) Terminate the plan upon its completion in accordance
4 with Subchapter C.1.

5 * * *

6 SECTION 15.1. THE ACT IS AMENDED BY ADDING A SECTION TO READ: <--
7 SECTION 247.1. ANNUAL BUDGET.

8 (A) PROPOSED BUDGET.--NOTWITHSTANDING ANY PROVISION OF LAW
9 OR HOME RULE CHARTER TO THE CONTRARY, A MUNICIPALITY SUBJECT TO
10 A PLAN UNDER THIS CHAPTER SHALL, AT LEAST 150 DAYS PRIOR TO THE
11 END OF ITS CURRENT FISCAL YEAR, COMMENCE DEVELOPMENT OF A
12 PROPOSED ANNUAL BUDGET FOR THE NEXT FISCAL YEAR THAT IMPLEMENTS
13 THE PROVISIONS OF THE PLAN OR MAKES OTHER CHANGES TO THE
14 MANAGEMENT OF THE MUNICIPALITY NECESSARY TO IMPLEMENT THE
15 PROVISIONS OF THE PLAN. THE PROPOSED BUDGET SHALL BE PREPARED BY
16 THE GOVERNING BODY OR THE CHIEF EXECUTIVE OFFICER, AS THE CASE
17 MAY BE.

18 (B) COORDINATOR REVIEW.--AT LEAST 90 DAYS PRIOR TO THE END
19 OF THE FISCAL YEAR, THE GOVERNING BODY OR CHIEF EXECUTIVE
20 OFFICER SHALL SUBMIT THE PROPOSED BUDGET TO THE COORDINATOR. THE
21 COORDINATOR SHALL REVIEW THE PROPOSED BUDGET TO VERIFY THAT THE
22 PROPOSED BUDGET CONFORMS WITH THE PLAN. THE COORDINATOR SHALL
23 MAKE ANY MODIFICATIONS NECESSARY TO THE PROPOSED BUDGET TO MEET
24 THE OBJECTIVES OF THE PLAN.

25 (C) RETURN OF PROPOSED BUDGET.--AFTER COMPLETION OF THE
26 COORDINATOR'S REVIEW, THE COORDINATOR SHALL, AT LEAST 45 DAYS
27 BEFORE THE END OF THE MUNICIPALITY'S FISCAL YEAR, SUBMIT THE
28 PROPOSED BUDGET, TOGETHER WITH THE COORDINATOR'S MODIFICATIONS,
29 IF ANY, TO THE MUNICIPALITY FOR ADOPTION IN ACCORDANCE WITH LAW.

30 (D) NOTIFICATION TO SECRETARY.--WITHIN 30 DAYS OF THE

1 MUNICIPALITY'S ADOPTION OF THE BUDGET, OR THE MUNICIPALITY'S
2 FAILURE TO TIMELY ADOPT A BUDGET, THE COORDINATOR SHALL NOTIFY
3 THE SECRETARY WHETHER OR NOT THE ADOPTED BUDGET, IF ANY,
4 CONFORMS TO THE PLAN. UPON A DETERMINATION THAT THE BUDGET DOES
5 NOT CONFORM TO THE PLAN, OR THAT THE MUNICIPALITY HAS NOT TIMELY
6 ADOPTED A BUDGET, THE SECRETARY MAY TAKE ACTION AS PROVIDED FOR
7 BY THIS ACT.

8 Section 16. Sections 248 and 250 of the act are amended to
9 read:

10 Section 248. Failure to adopt or implement plan.

11 If no plan is adopted or implemented pursuant to this
12 chapter, then sections 251 and 264 shall apply[.] and, upon a
13 written recommendation of the coordinator, the secretary may
14 request a determination of a fiscal emergency in accordance with
15 Chapter 6.

16 Section 250. Debt provisions.

17 Adoption of a plan in accordance with this subchapter and
18 Subchapter C.1 by ordinance is a condition precedent for the
19 approval of long-term debt or funding debt under [the act of
20 July 12, 1972 (P.L.781, No.185), known as the Local Government
21 Unit Debt Act] 53 Pa.C.S. Pt. VII Subpt. B (relating to
22 indebtedness and borrowing). A debt financing provision of the
23 plan may be waived by agreement of the lender and the
24 municipality; but any such waiving must be expressly set forth
25 in the indenture or contract securing the debt.

26 Section 17. Section 252(a) of the act, amended July 5, 2012
27 (P.L.1104, No.133), is amended to read:

28 Section 252. Plan not affected by certain collective bargaining
29 agreements or settlements.

30 (a) General rule.--Except as provided in subsection (b), a

1 collective bargaining agreement or arbitration settlement
2 executed after the adoption of a plan under this subchapter or
3 Subchapter C.1 shall not in any manner violate, expand or
4 diminish its provisions.

5 * * *

6 Section 18. Section 253 of the act is amended by adding a
7 subsection to read:

8 Section 253. Termination of status.

9 * * *

10 (d) Duration of distressed status.--Notwithstanding the
11 provisions of this section, the duration of distressed status
12 shall be limited as set forth in Subchapter C.1.

13 Section 19. The act is amended by adding a subchapter to
14 read:

15 SUBCHAPTER C.1

16 DURATION OF DISTRESSED STATUS

17 Section 254. Five-year limitation.

18 (a) Termination date.--

19 (1) Except as otherwise provided in this subchapter, no
20 municipality shall be subject to the provisions of this act
21 after five years from the effective date of an ordinance
22 enacted in accordance with section 245 or 246. No amendment
23 to a plan shall affect the termination date as determined
24 from the date of enactment of the original ordinance.

25 (2) Nothing in this section shall be construed to:

26 (i) prohibit a municipality from participating in an
27 early intervention program as provided in Chapter 1-A or
28 reentering distressed status in accordance with this act
29 after a termination of status in accordance with this
30 subchapter.

1 (ii) Prohibit termination of status proceedings in
2 accordance with section 253 prior to the termination date
3 as provided in this section.

4 (b) Distressed municipalities.--

5 (1) Municipalities operating pursuant to a recovery plan
6 on the effective date of this section shall be subject to a
7 termination date five years from the effective date of the
8 most recent recovery plan or amendment enacted in accordance
9 with this act, provided, however, that municipalities subject
10 to a plan that will remain in effect for one year or less on
11 the effective date of this subsection shall be subject to a
12 termination date three years from the termination date of the
13 current plan or plan amendment.

14 (2) If its distressed status has not been rescinded, a
15 municipality operating under Chapter 7 shall be subject to a
16 termination date five years from the termination date of
17 receivership.

18 Section 255. Coordinator's report.

19 (a) General rule.--In the final year of distressed status as
20 determined in accordance with section 254(a) and (b), the
21 coordinator shall prepare a report stating the financial
22 condition of the municipality and include one of the following
23 findings:

24 (1) Conditions within the municipality warrant a
25 termination in status in accordance with section 253.

26 (2) Conditions are such that the municipality should be
27 disincorporated in accordance with Chapter 4.

28 (3) Conditions as specified in section 261 exist and the
29 governing body should initiate proceedings for Federal debt
30 readjustment under Subchapter D.

1 (4) The elected and appointed officials of the
2 municipality have demonstrated a failure to adequately
3 implement recovery measures and a receiver should be
4 appointed in accordance with Chapter 7. For purposes of this
5 paragraph, a failure to adequately implement recovery
6 measures shall be considered a fiscal emergency.

7 (5) A three-year exit plan in accordance with section
8 256 is warranted.

9 (b) Filing and notice.--

10 (1) The report shall be filed with the same parties as
11 provided in section 242(a). The date of filing shall be the
12 date on which the municipal clerk or municipal secretary
13 places a true and correct copy of the report on file for
14 public inspection in the municipal office.

15 (2) On the date of filing, notice that the report has
16 been filed and is open for public inspection in the municipal
17 office shall be published by the coordinator in the county
18 legal reporter and in one or more newspapers with general
19 circulation serving the area in which the municipality is
20 located. The department shall pay for the cost of the
21 publication of the notice. The notice shall contain the
22 following information:

23 (i) A statement that a report regarding the status
24 of the municipality's financial distress was filed
25 pursuant to this act.

26 (ii) The date and place of filing.

27 (iii) A statement that the public has 15 days from
28 the date of filing in which to file written comments on
29 the report.

30 (iv) The name and address of the coordinator to whom

1 written comments should be sent.

2 (v) A summary of the report and findings of the
3 coordinator.

4 (vi) The date and place of a public meeting to
5 receive comments on the report.

6 (c) Written comments.--Written comments on the report may be
7 filed with the coordinator. Written comments shall be made no
8 later than 15 days after the date of filing. Written comments
9 judged by the coordinator to have value to the plan may be used
10 to develop a revised report.

11 (d) Public meeting.--A meeting conducted by the coordinator
12 in the municipality shall be set for a date not later than 20
13 days after the date of filing the report. The coordinator shall
14 request in writing that the chief executive officer, each member
15 of the municipal governing body and the chief financial officer
16 of the municipality be present at the coordinator's meeting.
17 Comments on the plan shall be received by the coordinator at
18 that time. The coordinator has the discretion whether to
19 consider comments made on the report.

20 (e) Revision of report.--

21 (1) Nothing in this section shall be construed to
22 preclude the coordinator from revising a report of his own
23 initiative.

24 (2) Neither the secretary nor the chief executive
25 officer or the governing body, as appropriate, may revise the
26 coordinator's report.

27 (3) If the coordinator decides to revise the report, the
28 coordinator shall consult with the secretary and either the
29 chief executive officer or the governing body throughout the
30 revision of the report and shall give consideration to

1 comments they may propose.

2 (4) A revised report shall be completed and delivered to
3 each party cited in section 242(a) within ten days from the
4 date of the coordinator's public meeting on the original
5 report.

6 Section 256. Exit plan.

7 (a) General rule.--If recommended in a final report under
8 section 255, the coordinator shall within 90 days of the public
9 meeting referred to in section 255 prepare an exit plan for the
10 municipality. The exit plan shall be subject to the same filing,
11 notice, public meeting and revision procedures as specified in
12 section 255.

13 (b) Contents of exit plan.--The exit plan prepared by the
14 coordinator shall contain such elements as may be necessary to
15 ensure termination of distressed status after three years,
16 including, but not limited to:

17 (1) The sale, lease, conveyance, assignment or other use
18 or disposition of the assets of the distressed municipality.

19 (2) Functional consolidation of or privatization of
20 existing municipal services.

21 (3) The execution, approval, modification, rejection,
22 renegotiation or termination of contracts or agreements of
23 the distressed municipality, provided, however, that the
24 provisions of section 252 shall apply to any exit plan
25 adopted in accordance with this subchapter.

26 (4) Changes in the form of municipal government or the
27 configuration of elected or appointed municipal officials and
28 employees as permitted by law.

29 (c) Adoption of plan.--

30 (1) Not later than 45 days following the coordinator's

1 public meeting, the municipal governing body shall enact an
2 ordinance approving the implementation of the plan, including
3 enactment of necessary related ordinances and revisions to
4 ordinances.

5 (2) If the ordinance takes effect in a municipality
6 operating under an optional plan form of government or a home
7 rule charter, the chief executive officer shall issue an
8 order directing the implementation of the plan no later than
9 seven days from the enactment of the ordinance by the
10 governing body.

11 (3) If the governing body fails to adopt and implement
12 the plan, the secretary shall, upon a written determination
13 by the coordinator, request that the Governor declare a
14 fiscal emergency and initiate proceedings under Chapter 7.

15 (4) THE REQUIREMENTS OF THIS SUBSECTION SHALL BE <--
16 SUSPENDED IF THE COORDINATOR FIRST PROVIDES A RECOMMENDATION
17 TO THE SECRETARY THAT THE MUNICIPALITY SHOULD BE
18 DISINCORPORATED UNDER CHAPTER 4.

19 Section 257. Postreport procedures.

20 (a) Five-year procedures.--The secretary shall, upon written
21 recommendation from the coordinator and after filing a final
22 report under section 255, take one of the following actions:

23 (1) Terminate the distressed status of the municipality
24 effective 90 days after filing a final report containing a
25 finding as provided in section 255(a)(1).

26 (2) After filing a final report containing a
27 recommendation under section 255(a)(2), terminate the
28 distressed status of the municipality effective on the date
29 of a final order establishing an unincorporated district
30 under Chapter 4.

1 (3) After filing a final report containing a
2 recommendation under section 255(a)(3), authorize an
3 application of the governing body to proceed with a municipal
4 debt adjustment action under Subchapter D. The distressed
5 status of the municipality shall not be rescinded during the
6 term of the municipal debt adjustment plan.

7 (4) After filing a final report containing a
8 recommendation under section 255(a)(4), petition the Governor
9 to declare a fiscal emergency and initiate proceedings under
10 Chapter 7.

11 (b) Exit plan procedures.--The secretary may, after the
12 adoption of a plan under section 256(c) and upon written
13 recommendation of the coordinator:

14 (1) issue a determination in accordance with section
15 253; or

16 (2) petition the Governor to initiate proceedings under
17 Chapter 7.

18 (c) Postexit plan procedures.--If three years have elapsed
19 since the adoption of an exit plan without a recommendation as
20 provided in subsection (b), the secretary shall, upon a written
21 recommendation of the coordinator:

22 (1) authorize an application of the governing body to
23 proceed with a municipal debt adjustment action under
24 Subchapter D. Notwithstanding any other provision of this
25 act, the distressed status of the municipality shall not be
26 rescinded during the term of the municipal debt adjustment
27 plan; or

28 (2) terminate the distressed status of the municipality
29 effective on the date of a final order establishing an
30 unincorporated district under Chapter 4.

1 Section 20. Section 261(a)(4) of the act, amended July 5,
2 2012 (P.L.1104, No.133), is amended to read:

3 Section 261. Filing municipal debt adjustment under Federal
4 law.

5 (a) Authorization.--In the event one of the following
6 conditions is present, a municipality is hereby authorized to
7 apply to the department to file a municipal debt adjustment
8 action pursuant to the Bankruptcy Code (11 U.S.C. § 101 et
9 seq.):

10 * * *

11 [(4) A majority of the current or immediately preceding
12 governing body of a municipality determined to be financially
13 distressed has failed to adopt a plan or to carry out the
14 recommendations of the coordinator pursuant to this act.]

15 * * *

16 Section 21. Section 281 of the act, ~~amended or~~ added June <--
17 30, 1992 (P.L.336, No.69), is amended to read:

18 Section 281. Eligibility.

19 If a municipality has been determined to be distressed under
20 section 203(f) and is not subject to funding restrictions under
21 section 251 or 264, it shall be eligible for economic and
22 community development assistance as provided in section 282.

23 Merger or consolidation [under Chapter 4] of a distressed
24 municipality with a municipality may not be deemed to diminish
25 the successor municipality's eligibility or priority status for
26 economic assistance under this chapter.

27 Section 22. Section 282(b) of the act, added June 30, 1992
28 (P.L.336, No.69), is amended and the section is amended by
29 adding a subsection to read:

30 Section 282. Priority.

1 * * *

2 (b) Releases of funds.--Funds granted to a distressed
3 municipality shall only be released upon concurrence by the
4 coordinator or receiver that the program to be funded is
5 consistent with efforts to alleviate the financially distressed
6 status of the municipality as provided in this act.

7 (b.1) Release of funds to unincorporated district.--Funds
8 granted to an unincorporated district shall be released to the
9 administrator in accordance with section 441.

10 * * *

11 Section 23. Chapter 4 heading of the act is amended to read:

12 CHAPTER 4
13 [CONSOLIDATION OR MERGER OF] COLLECTIVE
14 BARGAINING IN MERGED OR CONSOLIDATED
15 MUNICIPALITIES AND ECONOMICALLY NONVIABLE
16 MUNICIPALITIES

17 Section 24. Chapter 4 of the act is amended by adding a ~~subchapter~~ <--
18 ~~subchapter~~ SUBCHAPTERS to read: <--

19 SUBCHAPTER C
20 DISINCORPORATION OF NONVIABLE MUNICIPALITIES

21 Section 431. Definitions

22 The following words and phrases when used in this subchapter
23 shall have the meanings given to them in this section unless the
24 context clearly indicates otherwise:

25 "Administrator." A service district administrator appointed
26 pursuant to section 434.

27 "District." An unincorporated service district created by
28 section 441.

29 "District advisory committee." A service district advisory
30 committee established by section 442.

1 "Governing standards." Provisions within an essential
2 service plan providing for certain conduct of residents and
3 property owners as provided by section 436(c).

4 "Municipality." A county, city, borough, incorporated town,
5 township and OR home rule municipality THAT DOES NOT PROVIDE <--
6 POLICE SERVICE OR FIRE SERVICE THROUGH ITS EMPLOYEES. The term
7 does not include a city of the first class.

8 "Restricted Account." An account established in the State
9 Treasury as provided by section 445.1.

10 Section 431.1. Determination of nonviability.

11 (a) General rule.--Upon recommendation of a coordinator
12 appointed under Chapter 2 or a receiver appointed under Chapter
13 7, the secretary shall consider whether all of the following
14 conditions have been met in determining that a municipality is
15 nonviable:

16 (1) The municipality is unable to function as a general
17 purpose unit of government to provide essential services to
18 its residents and property owners.

19 (2) The municipality has experienced such deteriorated
20 economic conditions and a collapse of its tax base that all
21 reasonable efforts to restore economic viability have failed.

22 (3) Efforts to merge or consolidate the municipality
23 with a neighboring municipality are unachievable or will not
24 result in viability.

25 (b) Notice and recommendation.--If the secretary determines
26 that a municipality is nonviable under all of the conditions
27 provided in subsection (a), the secretary shall provide notice
28 to the governing body of the municipality of the secretary's
29 determination and recommend that the municipality be
30 disincorporated under this subchapter.

1 Section 432. Procedure for disincorporation.

2 (a) Ordinance.--Within 45 days of a determination of
3 nonviability under section 431.1, the governing body may enact
4 an ordinance, subject to review by the court of common pleas
5 under section 433, that will initiate the disincorporation of
6 the municipality. The ordinance shall be advertised as required
7 by law but it may not become effective until the court has
8 issued its decree under section 433.

9 (b) Petition by electors.--If the governing body of the
10 municipality fails to pass an ordinance authorized under
11 subsection (a), then a petition signed by registered electors of
12 the municipality comprising at least 51% of the number of
13 electors voting for the office of Governor in the last
14 gubernatorial general election may be submitted to the court
15 within 60 days of the failure of the governing body to enact an
16 ordinance as provided in subsection (a).

17 (c) Action filed by secretary.--If no ordinance is filed for
18 review under subsection (a) and no petition is filed under
19 subsection (b) with the court within the time specified, the
20 secretary may file an action in the court of common pleas
21 petitioning the court to issue a decree under section 433(e)-, <--

22 PROVIDED THAT ONE OF THE FOLLOWING CONDITIONS HAS BEEN MET:

23 (1) THE MUNICIPALITY HAS ADOPTED A PLAN OR AMENDED PLAN
24 UNDER CHAPTER 2 WHICH RECOMMENDS THAT THE MUNICIPALITY BE
25 DISINCORPORATED; OR

26 (2) THE MUNICIPALITY REFUSES TO ADOPT A PLAN OR AMENDED
27 PLAN PROPOSED BY A COORDINATOR UNDER CHAPTER 2 WHICH
28 RECOMMENDS THAT THE MUNICIPALITY BE DISINCORPORATED.

29 Section 433. Judicial review of ordinance or petition.

30 (a) Filing and notice.--Upon presentation to the court of

1 the filing of an ordinance under section 432(a) or a petition
2 under section 432(b) or (c), the court shall direct the
3 prothonotary to give notice of the filing of the ordinance or
4 petition in a newspaper of general circulation in the county
5 where the municipality is located once a week for four
6 consecutive weeks and once in the county legal journal, if any,
7 during the four-week period. The notice shall provide the date
8 the ordinance or petition was filed and specify that exceptions
9 to the ordinance or petition may be filed within 45 days of the
10 date of the filing of the ordinance or petition by any of the
11 following:

- 12 (1) the governing body of the municipality;
- 13 (2) a taxpayer of the municipality;
- 14 (3) any creditor or bondholder of the municipality; or
- 15 (4) any collective bargaining unit or contractor of the
16 municipality.

17 (b) Notice of hearing.--No later than 60 days after the date
18 of the filing of the ordinance or petition, the court shall
19 conduct a hearing on the ordinance or petition and exceptions
20 filed thereto. Notice of the hearing shall be provided by the
21 court to those receiving notice under subsection (a) and to all
22 other parties that have filed exceptions in accordance with
23 subsection (a).

24 (c) Hearing proceedings.--

- 25 (1) The governing body of the municipality and all other
26 individuals and entities which have filed exceptions under
27 subsection (a) shall be parties to the proceedings and shall
28 be entitled to present testimony or other evidence relevant
29 to the nonviability of the municipality or relevant to
30 exceptions timely filed, provided that the court, in its

1 discretion, may consolidate testimony related to similar
2 exceptions.

3 (2) The coordinator or receiver, or another designee of
4 the secretary, shall testify about the progress of the
5 municipality under the adopted recovery plan under Chapter 2
6 or plan adopted under Chapter 7 and render an opinion
7 regarding the viability of the municipality.

8 (3) The court may examine pertinent financial
9 information and any audits prepared by a certified public
10 accountant of the municipality and receive additional
11 evidence relevant to the matter, including, but not limited
12 to, evidence relating to:

13 (i) The effect of disincorporation, including
14 provisions for services that would be continued to be
15 provided to residents and property owners of the proposed
16 disincorporated area.

17 (ii) Additional plans, proceedings or strategies
18 that could ensure that the municipality remain viable.

19 (iii) The effect of the disincorporation on any
20 bonds, other obligations or agreements of the
21 municipality.

22 (d) Costs and fees.--Court costs and filing fees associated
23 with proceedings under this subchapter shall be paid by the
24 department.

25 (e) Judicial decree.--

26 (1) The court shall issue a decree approving the
27 validity of the ordinance or granting the petition unless it
28 finds, by clear and convincing evidence, that the
29 municipality should continue to exist as a separate municipal
30 corporation because of a reasonable expectation that the

1 municipality is viable.

2 (2) Upon issuance of the judicial decree, the department
3 and governing body of the municipality shall engage in the
4 duties required by this subchapter to prepare for
5 disincorporation. The disincorporation shall take effect upon
6 the execution of disincorporation under section 439.

7 (3) Upon the failure of the court to issue a judicial
8 decree under this subsection following the hearing, the
9 secretary shall determine whether:

10 (i) the recovery plan for the municipality shall
11 remain in effect, provided that the limitations under
12 Subchapter C.1 do not yet apply;

13 (ii) the elected and appointed officials of the
14 municipality have demonstrated a failure to adequately
15 implement recovery measures and, if so, that a receiver
16 should be appointed in accordance with Chapter 7. For
17 purposes of this subparagraph, a failure to adequately
18 implement recovery measures shall be considered a fiscal
19 emergency;

20 (iii) conditions within the municipality warrant a
21 termination in status in accordance with section 253; or

22 (iv) conditions as set forth in section 261 exist
23 and, if so, that the governing body should initiate
24 proceedings for federal debt readjustment under
25 Subchapter D of Chapter 2.

26 Section 434. Service district administrator.

27 (a) Appointment.--No later than 30 days following a decree
28 of the court of common pleas under section 433(e), the secretary
29 shall appoint a service district administrator. The
30 administrator must have a minimum of five years' experience and

1 demonstrable expertise in business, financial or State or local
2 budgetary matters and be a resident of this Commonwealth for at
3 least one year prior to appointment.

4 (b) Compensation and expenses.--The administrator's
5 compensation and reimbursement for actual and necessary expenses
6 shall be paid by the Commonwealth. The date and amount of
7 compensation shall be established by the secretary. The
8 department may require the compensation and expenses of the
9 administrator to be reimbursed by an assessment for
10 administrative costs under Subchapter D.

11 (c) Revocation and vacancy.--The secretary may revoke the
12 appointment of an administrator at any time. A vacancy in the
13 office of the administrator by way of revocation or resignation
14 shall be filled in the same manner as the original appointment.

15 (d) Prohibitions.--An administrator may not:

16 (1) Seek or hold a position as any other elected or
17 appointed public official within this Commonwealth or as a
18 political party officer during the term of the
19 administrator's tenure.

20 (2) Seek election as a public official or political
21 party officer for one year after the person's service as
22 administrator has ended.

23 (3) Engage in any conduct prohibited by the act of July
24 19, 1957 (P.L.1017, No.451), known as the State Adverse
25 Interest Act, or 65 Pa.C.S. Ch. 11 (relating to ethics
26 standards and financial disclosure).

27 (e) Liability.--

28 (1) The administrator shall not be liable personally for
29 any obligations of the municipality or unincorporated service
30 district.

1 (2) It is declared to be the intent of the General
2 Assembly that the administrator shall enjoy sovereign and
3 official immunity as provided in 1 Pa.C.S. § 2310 (relating
4 to sovereign immunity reaffirmed; specific waiver) and shall
5 remain immune from suit except as provided by and subject to
6 the provisions of 42 Pa.C.S. Ch. 85 Subchs. A (relating to
7 general provisions) and B (relating to actions against
8 Commonwealth parties).

9 (f) Powers and duties.--Notwithstanding any other provision
10 of law, the administrator shall have the following powers and
11 duties:

12 (1) To require the municipality to take actions
13 necessary for disincorporation under section 439, including:

14 (i) The sale, conveyance, assignment or other use or
15 disposition of the municipality's assets as provided by
16 law.

17 (ii) The repayment of debt, bonds or other
18 obligations before disincorporation.

19 (iii) Any other action necessary to implement the
20 disincorporation.

21 (2) To seek a writ of mandamus against the governing
22 body to carry out this subchapter.

23 (3) To identify essential services which should be
24 provided to the residents and property owners of the district
25 after the municipality is disincorporated.

26 (4) To approve, disapprove, modify, reject, terminate or
27 renegotiate contracts and agreements to provide services to
28 the residents and property owners of the district.

29 (5) To deposit all funds collected to administer
30 Subchapter D in the municipality's restricted account and to

1 requisition moneys from the restricted account.

2 (6) To apply for grants, loans or payments under any
3 economic and community development program funded by the
4 Commonwealth.

5 (7) To establish fees which may be assessed to fund
6 essential services provided by contract or intergovernmental
7 cooperation agreements under Subchapter D.

8 (8) To meet and consult with the municipal governing
9 body before disincorporation and the district advisory
10 committee after the establishment of the district.

11 (9) To meet and consult with county officials to
12 prevent, abate and mediate blight as permissible by law.

13 (10) To contract for professional services to aid in the
14 administrator's duties under this subchapter and Subchapter
15 D.

16 (11) To seek enforcement of any provision of this
17 subchapter and Subchapter D.

18 (12) To seek invalidation of any act by the governing
19 body of the municipality in conflict with the administrator's
20 essential services plan.

21 Section 435. Powers and duties of municipality.

22 (a) General rule.--After the review of the court of common
23 pleas resulting in a decree under section 433(e), but not less
24 than 30 days before the date set by the administrator for
25 disincorporation to take effect, the governing body of the
26 municipality shall:

27 (1) Enact a budget in the municipality's projected final
28 year that funds the municipality's functions until the date
29 of disincorporation and provides for the payment of every
30 current obligation of the municipality before the date of

1 disincorporation. All remaining municipal funds as of the
2 date of disincorporation shall be transferred to the
3 municipality's restricted account.

4 (2) Provide for the transfer and administration of any
5 municipal pension obligation to a private or public pension
6 fund. Nothing in this paragraph shall be construed to
7 authorize a modification of the pension benefits due to any
8 current or past employee of the municipality.

9 (3) Provide for the appointment of the district advisory
10 committee to assist the administrator after the
11 disincorporation of the municipality.

12 (b) Corporate powers reserved.--After the review of the
13 court of common pleas resulting in a decree under section 433(e)
14 until the date of disincorporation, the governing body shall
15 retain all corporate powers otherwise authorized by law, except
16 that it shall not take any action inconsistent with the
17 administrator's plan for disincorporation.

18 (c) Establishment of governing standards for district.--

19 (1) The governing body of the municipality may adopt
20 recommended governing standards which may be included by the
21 administrator in the essential services plan as the governing
22 standards of the district.

23 (2) If the governing body adopts recommended governing
24 standards, the following shall apply:

25 (i) No later than 30 days following a decree of the
26 court of common pleas under section 433(e), the governing
27 body shall provide written notice to the administrator
28 that the governing body intends to adopt an ordinance
29 containing recommended governing standards for the
30 inclusion in the essential services plan.

1 (ii) No later than 60 days following the notice
2 provided under subparagraph (i), the governing body shall
3 adopt an ordinance containing recommended governing
4 standards for inclusion in the essential services plan.
5 The ordinance may incorporate, by reference, any
6 previously enacted ordinance of the municipality.

7 (d) Powers of district advisory committee authorized.--After
8 the review of the court of common pleas resulting in a decree
9 under section 433(e) but prior to the date of disincorporation,
10 in addition to the powers provided for under this subchapter,
11 the governing body of the municipality may advise the
12 administrator in the manner provided for the district advisory
13 committee under Subchapter D in the formation and amendment of
14 the essential services plan.
15 Section 436. Essential services plan.

16 (a) Formation.--The administrator shall, within 90 days
17 following appointment and in consultation with the department,
18 develop an essential services plan to provide essential services
19 after the date of disincorporation. The essential services plan
20 shall provide for:

21 (1) Negotiation of contracts for the provision of vital
22 and necessary services, not otherwise provided by an
23 authority, as defined under Chapters 6 and 7. IF THE <--
24 MUNICIPALITY PARTICIPATES IN A REGIONAL POLICE OR FIRE
25 DEPARTMENT THROUGH AN INTERGOVERNMENTAL COOPERATION
26 AGREEMENT, THE ESSENTIAL SERVICES PLAN MAY PROVIDE FOR
27 CONTINUED SERVICE FROM THAT REGIONAL DEPARTMENT BY CONTRACT
28 OR BY RENEGOTIATING THE INTERGOVERNMENTAL COOPERATION
29 AGREEMENT.

30 (2) Local emergency management in accordance with the

1 plan and program of the Pennsylvania Emergency Management
2 Agency. The administrator shall consult with the emergency
3 management organization of the county where the district is
4 located to develop a plan which serves the district in a
5 substantially similar manner as plans required for a
6 political subdivision under 35 Pa.C.S. Ch. 75 Subch. A
7 (relating to general provisions). The plan shall include a
8 procedure for a declaration of a disaster emergency to be
9 made in the district and the designation of a local
10 coordinator of emergency management. The administrator is
11 authorized to negotiate any contracts which are necessary to
12 provide for the execution of a plan formed under this
13 paragraph.

14 (3) Payment of the lawful financial obligations of the
15 unincorporated service district, including any transferred
16 current obligation of the municipality and service of any
17 debt incurred by the municipality in the manner provided by
18 Subchapter D, after the disincorporation of the municipality.

19 (4) Assessment of fees as provided by Subchapter D.

20 (5) Disposition of all municipal property by sale, lease
21 or conveyance for any of the following purposes:

22 (i) Payment of outstanding debt obligations.

23 (ii) Provision of services by an entity contracting
24 with the unincorporated service district.

25 (iii) Possession of title by the Commonwealth as
26 provided by Subchapter D.

27 (6) Termination of all contracts with the municipality.

28 (7) Administration of the unincorporated service
29 district, which may include reimbursement to the department
30 for the compensation of the administrator.

1 (8) Establishment of the date of disincorporation of the
2 municipality as provided for by section 439.

3 (9) Establishment of the name of the district. A
4 district established by this act shall be named "The
5 Unincorporated District of"

6 (b) Restrictions.--An essential services plan may not:

7 (1) Provide for the levy of any taxes.

8 (2) Terminate an obligation to repay any debt, except
9 that the plan may designate the unincorporated service
10 district as the servicer of a debt and may specify that a
11 debt secured by the collection of taxes shall be secured by
12 the assessment of fees sufficient to satisfy the service
13 obligations of the debt.

14 (3) Assess and collect a higher amount of fees in the
15 district's first full calendar year totaling 5% more than the
16 total taxes levied in the municipality's final year before
17 disincorporation.

18 (4) Authorize the incurrence of any debt by the
19 district, except as provided under section 441(k).

20 (c) Governing standards of the district.--

21 (1) The essential services plan shall provide for
22 governing standards, which standards shall include:

23 (i) Rules and conduct related to the maintenance of
24 property, conduct in public places and the parking of
25 vehicles in public places which shall protect the health,
26 safety and welfare of the residents and property owners
27 of the district to the extent such rules and conduct
28 could have been adopted by the municipality by ordinance.

29 (ii) Fines and other relief which may be granted by
30 a court presiding over a civil action brought for a

1 violation of the governing standards.

2 (2) If the governing body of the municipality adopts
3 recommended governing standards as provided in section
4 435(c), the administrator shall include the recommended
5 governing standards in the essential services plan unless the
6 administrator finds that the recommended governing standards
7 are unlawful, unconstitutional or would substantially impede
8 the administration of the essential services plan.

9 Section 437. Proposed essential services plan.

10 (a) Filing.--Within 90 days of the appointment of the
11 administrator, the administrator shall deliver true and correct
12 copies of the proposed essential services plan to:

13 (1) The municipal clerk or municipal secretary, who
14 shall immediately place the copy on file for public
15 inspection in the municipal office.

16 (2) The secretary.

17 (3) Each member of the municipal governing body.

18 (4) The chief executive officer of the municipality.

19 (5) The chief financial officer of the municipality.

20 (6) The solicitor of the municipal governing body.

21 (b) Date of filing.--For purposes of this section, the date
22 of filing the proposed essential services plan shall be the date
23 on which the municipal clerk or municipal secretary places a
24 true and correct copy of the proposed essential services plan on
25 file for public inspection in the municipal office.

26 (c) Notices of proposed essential services plan.--

27 (1) On the date of filing, notice that a proposed
28 essential services plan has been filed and is open for public
29 inspection in the municipal office shall be published by the
30 administrator in the county legal reporter and in one or more

1 newspapers with general circulation serving the area in which
2 the municipality is located. The cost for publishing the
3 notice shall be borne by the department. The notice shall
4 contain the following:

5 (i) A statement that a proposed essential services
6 plan has been filed regarding the provision of essential
7 services to the residents and property owners of the
8 unincorporated service district which shall succeed the
9 municipality after disincorporation.

10 (ii) The date and place of filing.

11 (iii) A statement that the public has 15 days from
12 the date of filing in which to file written comments
13 relating to the proposed essential services plan.

14 (iv) The name and address of the administrator to
15 whom written comments should be sent.

16 (v) Summary of the proposed essential services plan.

17 (2) Notice of an administrator's public meeting on the
18 proposed essential services plan shall be published by the
19 administrator in the county legal reporter and in one or more
20 newspapers with general circulation serving the area in which
21 the municipality is located. The department shall bear the
22 cost for publishing the notice. The notice shall contain the
23 following:

24 (i) A statement that the purpose of the
25 administrator's public meeting is to receive public
26 comments on the proposed essential services plan.

27 (ii) The date and place of the meeting.

28 (3) The administrator may combine the publication of the
29 notice that a proposed essential services plan has been filed
30 with the publication of the notice of the public meeting.

1 (d) Comment period.--Written comments on the proposed
2 essential services plan may be filed with the administrator.
3 Written comments shall be made no later than 15 days after the
4 date of filing. Written comments judged by the administrator to
5 have value to the proposed essential services plan may be used
6 to develop revisions for a final essential services plan.

7 (e) Administrator's public meeting.--A meeting conducted by
8 the administrator in the municipality shall be set for a date no
9 later than 20 days after the date of filing the proposed
10 essential services plan. The administrator shall request in
11 writing that the chief executive officer, each member of the
12 municipal governing body and the chief financial officer of the
13 municipality to be present at the service administrator's
14 meeting. At that meeting, the administrator shall:

15 (1) Present a summary of the proposed essential services
16 plan.

17 (2) Receive public comment on the proposed essential
18 services plan.

19 (3) Allow the members of the governing body of the
20 municipality to present written and oral comments requesting
21 revisions of the proposed essential services plan.

22 Section 438. Final essential services plan.

23 (a) Amendment of plan.--

24 (1) The administrator shall consider all timely
25 submitted written comments, comments presented at the public
26 meeting and requests for revision in the amendment of the
27 publicly presented proposed essential services plan before
28 publishing a final essential services plan.

29 (2) In the event that the administrator does not
30 incorporate the requests for revision by the members of the

1 governing body of the municipality regarding the levels of
2 services provided under the proposed essential services plan
3 or the basis for the calculation of fees assessed under the
4 proposed essential services plan, the administrator shall
5 state in the proposed essential services plan why the
6 requested revisions were not feasible to incorporate in the
7 final essential services plan.

8 (b) Notice of final essential services plan.--Within 45 days
9 of the public meeting the administrator shall file the final
10 essential services plan with the persons listed in section
11 437(a) and provide notice of the publication of the final
12 essential services plan in the manner provided in section
13 437(c)(1)(i), (ii) and (v).

14 (c) Appeal.--

15 (1) Any person aggrieved by the final essential services
16 plan may appeal the plan to the court of common pleas within
17 30 days of notice of the filing of the final essential
18 services plan. For purposes of this section, notice shall
19 constitute the date that the person received actual notice of
20 the final essential services plan, or the date that notice of
21 the filing of the final essential services plan is first
22 published in a newspaper with general circulation serving the
23 area in which the municipality is located.

24 (2) No appeal of a final essential services plan shall
25 constitute an automatic stay of the essential services plan.

26 (3) The appeal shall be sustained only where the court
27 finds that the final essential services plan is unlawful or
28 unconstitutional, or the conduct of the administrator is
29 arbitrary or capricious.

30 Section 439. Disincorporation of municipality.

1 (a) Effects of disincorporation.--On the date of
2 disincorporation, the following shall occur:

3 (1) Notwithstanding any other provision of law, the
4 terms of office of all elected officials of the municipality
5 shall end and no person shall be elected or appointed to fill
6 any vacancy of office.

7 (2) All ordinances of the municipality shall be
8 nullified.

9 (3) All corporate powers granted to the municipality
10 under its charter, municipal code or any other provision of
11 law shall terminate.

12 (4) The municipality shall be deemed by operation of law
13 to be disincorporated. The area formerly contained within the
14 municipality shall be an unincorporated service district as
15 provided under Subchapter D.

16 (b) Duties of administrator.--On or before the date of
17 disincorporation, the administrator shall:

18 (1) Execute all contracts for the provision of services
19 and otherwise implement the essential services plan, which
20 shall take effect on the date of disincorporation.

21 (2) Provide notice of assessments to the property owners
22 of the unincorporated service district according to the
23 procedure provided in section 443(b) which may be a partial
24 year assessment as provided by section 443(e).

25 (3) Provide notice to the Governor and all Commonwealth
26 agencies that the municipality has been disincorporated and
27 the date of disincorporation.

28 (c) Duties of county.--Effective on the date of
29 disincorporation, notwithstanding any other provision of law,
30 the county in which the municipality is located shall:

1 (1) Adopt a zoning ordinance which applies to the
2 unincorporated service district and adopts the substantive
3 provisions of the municipality's zoning ordinance, if any, as
4 it was in effect before nullification by subsection (a)(2).

5 (2) Adopt an official map for the unincorporated service
6 district which adopts the substance of the municipality's
7 official map, if any, as it was in effect before
8 nullification by subsection (a)(2).

9 (3) Unless the county has adopted a subdivision and land
10 development ordinance prior to the date of disincorporation
11 of the municipality, adopt a subdivision and land development
12 ordinance which shall apply to any unincorporated service
13 district within the county.

14 (4) Provide for the administration of the zoning
15 ordinance and the subdivision and land development ordinance
16 as they apply to the unincorporated service district and any
17 other provisions of the act of July 31, 1968 (P.L.805,
18 No.247), known as the Pennsylvania Municipalities Planning
19 Code, that may be applicable.

20 (5) Amend the county's comprehensive plan to the extent
21 necessary to be consistent with the requirements of this
22 subsection.

23 (d) Property succession.--Immediately following
24 disincorporation the area formerly contained within the
25 municipality shall, by operation of law, be deemed an
26 unincorporated service district under Subchapter D, the
27 Commonwealth shall succeed in title to all property, including
28 all real property, personal property and moneys in any municipal
29 account, of the disincorporated municipality to be held in trust
30 for the benefit of the residents and property owners of the

1 unincorporated service district as provided under Subchapter D.

2 SUBCHAPTER D

3 UNINCORPORATED SERVICE DISTRICT

4 Section 441. Establishment of unincorporated service district.

5 (a) General rule.--The area formerly contained within a
6 municipality shall, after disincorporation under Subchapter C,
7 become an unincorporated service district. The district shall be
8 an entity of the Commonwealth established for the special
9 purpose of providing essential services to the citizens living
10 within the district until such time as the district is
11 incorporated as a municipality or made a part of a merged or
12 consolidated with an existing municipality under section 447.

13 (b) Authorized administrative authority.--All powers
14 providing for the administration of the district shall be vested
15 in the department through the administrator as provided in this
16 subchapter. The district advisory committee shall not possess
17 the corporate powers of the governing body of any municipality
18 or any authority, except as provided by this subchapter.

19 (c) Corporate powers prohibited.--Nothing in this subchapter
20 shall be construed as authorizing the district to exercise
21 corporate powers for the administration of a local government,
22 including the power to levy taxes, establish elected or
23 appointed offices and purchase, sell or convey property, except
24 that the residents of the district may incorporate a
25 municipality or merge or consolidate with an existing
26 municipality as provided for in section 447.

27 (d) Assets held by Commonwealth in trust.--

28 (1) All assets not sold by the municipality during the
29 process of its disincorporation shall be conveyed to the
30 Commonwealth to be held in trust for the benefit of the

1 residents and property owners of the district.

2 (2) The administrator shall serve as trustee of the
3 property and provide for the repair and maintenance of all
4 real property and roadways held in trust for the benefit of
5 the residents and property owners of the district through the
6 collection of assessments under this subchapter and
7 administration of payments distributed to the district as
8 provided in subsection (f).

9 (3) Nothing in this subsection shall be construed as
10 providing the express approval of the General Assembly to
11 dispose of or use any lands acquired with funds under the act
12 of June 22, 1964 (Sp.Sess., P.L.131, No.8), known as the
13 Project 70 Land Acquisition and Borrowing Act, for purposes
14 other than those provided by that act, except that the
15 Commonwealth may succeed in title of the property for the
16 limited purposes established by this subsection.

17 (e) Former municipal debt secured by entrusted assets.--

18 (1) All debt incurred by the municipality before the
19 establishment of the district shall be held by the district
20 for administration by the administrator. Any such debt shall
21 be secured by the assets conveyed to the Commonwealth and
22 held in trust under subsection (d) and serviced by fees
23 collected under this subchapter.

24 (2) Nothing in this section shall be construed to
25 authorize the Commonwealth to guarantee any debt incurred by
26 a municipality or district with the full faith and credit of
27 the Commonwealth, revenues from the General Fund or any other
28 source of revenue not derived from fees assessed for the
29 administration of this subchapter or gains from the sale of
30 assets of the former municipality.

1 (f) Eligibility for State grants and programs unaffected.--

2 (1) A district shall be eligible to receive any
3 financial grant, loan or payment and participate in any
4 program for which it was eligible when it was a municipality,
5 including, but not limited to, payments distributed pursuant
6 to the act of June 1, 1956 (1955 P.L.1944, No.655), referred
7 to as the Liquid Fuels Tax Municipal Allocation Law, all
8 programs administered by the Pennsylvania Infrastructure
9 Investment Authority and all economic and community
10 development programs funded by the Commonwealth.

11 (2) A district shall continue to receive priority in all
12 economic and community development programs funded by the
13 Commonwealth as provided for by Subchapter E of Chapter 2.

14 (3) The administrator may apply for and shall manage any
15 funds distributed to the district pursuant to this section.

16 (g) Credit for fees assessed.--The payment of fees under
17 this subchapter by a resident of a district shall constitute a
18 credit against the collection of any income tax by a
19 municipality on nonresidents, if applicable.

20 (h) Relationship with existing municipal and other
21 authorities preserved.--

22 (1) All authorities established to provide services to
23 the residents and property owners of a municipality prior to
24 disincorporation shall continue to serve the residents and
25 property owners of a district, and all members of the
26 authority appointed by the governing body of the municipality
27 prior to disincorporation shall continue to serve out the
28 remainder of the members' terms.

29 (2) Notwithstanding the provisions of 53 Pa.C.S. § 5607
30 (relating to purposes and powers) or any other provision of

1 law, subsequent appointments to the authority board which
2 would otherwise be made by the governing body of the
3 municipality shall be made by the administrator in
4 consultation with the district advisory committee.

5 (i) Governing standards enforceable.--

6 (1) The governing standards included in the essential
7 services plan shall be enforceable by the filing of a civil
8 action by the administrator or any aggrieved property owner
9 or resident of the district.

10 (2) A violation of the governing standards shall
11 constitute a public nuisance.

12 (3) A magisterial district court or another court of
13 competent jurisdiction presiding over a civil action brought
14 under this subsection may find relief for the filing party
15 according to the relief provided for in the essential
16 services plan or any other relief which is available by law
17 for the abatement of a public nuisance.

18 (j) Pennsylvania Construction Code applicable.--

19 (1) The act of November 10, 1999 (P.L.491, No.45), known
20 as the Pennsylvania Construction Code Act, shall apply to all
21 construction, alteration, repair and occupancy of all
22 buildings within the district as though the district were a
23 municipality which opted not to adopt the uniform
24 construction code by ordinance.

25 (2) The administrator shall receive any application for
26 a construction permit and provide appropriate notices to an
27 applicant of a construction permit and the Department of
28 Labor and Industry as provided under section 501(e) of the
29 Pennsylvania Construction Code Act.

30 (k) Incurrence of debt limited.--The district shall not

1 incur debts not provided for in subsection (e), except that the
2 administrator may utilize such mechanisms as are necessary to
3 incur temporary debts, or make purchases on credit, on behalf of
4 and for the limited purpose of managing the cash flow for the
5 district. All obligations incurred under this subsection shall
6 be satisfied in full within one year and secured only by the
7 anticipation of the collection of assessments under section 443.
8 Section 442. Service district advisory committee.

9 (a) Establishment.--Each service district shall establish a
10 service district advisory committee.

11 (b) Composition.--The district advisory committee shall be
12 composed of three persons who are at least 18 years of age,
13 including two resident property owners of the district and one
14 owner of a business within the district, if any, who may or may
15 not be a resident of the district.

16 (c) Appointment by governing body.--At least 30 days prior
17 to the date of disincorporation, the governing body of the
18 former municipality shall appoint three members of the district
19 advisory committee. The governing body shall designate that one
20 appointee serve a term of one year, one appointee serve a term
21 of two years and one appointee serve a term of three years.

22 (d) Vacancy.--At the expiration of the term of a member of
23 the district advisory committee, the remaining members of the
24 committee shall appoint a person to fill the vacancy. In the
25 event that the remaining members of the committee are unable to
26 agree on a person to fill the vacancy or there is more than one
27 vacancy, the administrator shall select a person or persons to
28 fill the vacancy. All persons appointed to fill a vacancy on the
29 district advisory committee shall have a term of three years
30 beginning on the date of appointment.

1 (e) Advise administrator.--The district advisory committee
2 shall, at least once every three months, meet with the
3 administrator and may make recommendations to the administrator
4 for revisions to the essential services plan, including
5 revisions to the levels of services provided to the residents
6 and property owners of the district and methodology of rate
7 calculation. The administrator shall consider all
8 recommendations of the district advisory committee.

9 (f) Advise county on land use issues.--The district advisory
10 committee may provide recommendations on behalf of the residents
11 and property owners of the district to any county official
12 regarding any land use-related matter.

13 (g) Advise department on incorporation.--The district
14 advisory committee may provide recommendations to the department
15 at any time that the residents of the district and the
16 department consider the feasibility of incorporating as a viable
17 municipality or merger or consolidation with an existing
18 municipality.

19 (h) Recommended amendment of governing standards.--

20 (1) Amendments to the governing standards may be
21 recommended by a majority vote of the district advisory
22 committee or by a petition signed by registered electors of
23 the municipality comprising at least 10% of the number of
24 electors voting for the office of Governor in the last
25 gubernatorial general election.

26 (2) Upon receipt of a recommendation made under this
27 subsection, the administrator shall include the recommended
28 amendments to the governing standard as a proposed plan
29 amendment under section 444, unless the administrator finds
30 that the recommended amendment of the governing standards is

1 unlawful, unconstitutional or would substantially impede the
2 administration of the essential services plan.

3 (i) Restrictions.--The district advisory committee shall
4 have no authority to act as a municipal governing body.

5 (j) Open meetings.--The district advisory committee shall be
6 an agency for purposes of the open meeting provisions of 65
7 Pa.C.S. Ch.7 (relating to open meetings).

8 Section 443. Assessments.

9 (a) Authority to assess.--The administrator may establish
10 assessments on a front foot or benefit-conferred basis, or a
11 combination of both, on all real property within the district to
12 provide for:

13 (1) The cost of all essential services provided to the
14 district.

15 (2) The service of all debts held in trust by the
16 Commonwealth which were incurred by the former municipality
17 prior to disincorporation.

18 (3) The necessary construction, maintenance or repair of
19 facilities or properties which have been conveyed to the
20 Commonwealth and are held in trust for the benefit of the
21 district.

22 (4) Reimbursement to the department of its reasonable
23 costs of administration of the district, including, but not
24 limited to, the compensation of the administrator and the
25 collection of assessments authorized under this section.

26 (5) Other costs incurred by the district or
27 administrator in the execution of this subchapter, including
28 a reserve of no more than 15% of the annual estimated costs
29 of the essential services plan in the restricted account
30 established in section 445 to provide for the provision of

1 unforeseeable costs.

2 (b) Establishment of assessment.--

3 (1) No later than October 1 of the year preceding the
4 year for which the assessment applies, the administrator
5 shall establish a schedule of assessment for all real
6 property within the unincorporated district.

7 (2) The administrator shall provide written personal
8 notice to each property owner of each property of the
9 assessment due for the ensuing year no later than November 1
10 of the year preceding the year for which the assessment
11 applies.

12 (3) As used in this subsection, "personal notice" shall
13 mean and include notice upon the owner of a property either
14 by personal service upon the owner or by certified mail to
15 the owner at the owner's last known address or where service,
16 after a reasonable attempt, shall not have been successfully
17 made by either of these two methods, then by leaving notice
18 at or upon the property.

19 (c) Appeal of assessment.--Any person wishing to challenge
20 the reasonableness of the assessment may file a suit in the
21 court of common pleas within 30 days of receiving the notice
22 provided in subsection (b).

23 (d) Payment of assessments.--Payment of the assessment in
24 full shall be due no later than March 1, unless the
25 administrator has provided for installment payments in
26 accordance with subsection (e).

27 (e) Installments.--The administrator may provide for the
28 payment of assessments by equal installments on a quarterly or
29 semiannual basis as follows:

30 (1) The administrator shall provide written personal

1 notice of the installment plan to owners containing the date
2 installments are due, interest and prepayment.

3 (2) The rate of interest for the installments shall be
4 established by the administrator at a rate of 6% per year.

5 (3) If any of the installments remain unpaid for 60 days
6 after the same has become due and payable, the entire unpaid
7 assessment, plus unpaid accrued interest and any costs, shall
8 be due and payable and the administrator shall proceed to
9 collect the assessment due as provided in subsection (g).

10 (4) A property owner upon whom an assessment has been
11 made may pay all or as many of the installments before the
12 same are due, with interest and costs to the due date of the
13 next installment.

14 (f) First year assessment.--The administrator may provide
15 for a partial assessment for the calendar year in which the
16 disincorporation of the municipality occurs. The due date for a
17 partial year assessment and installment schedule may be set by
18 the administrator, provided that no assessment shall be due
19 sooner than 60 days after the administrator provides written
20 personal notice of the assessment under the procedure in
21 subsection (a).

22 (g) Delinquent assessments.--Assessments remaining unpaid on
23 December 31 of the year in which they are due shall be
24 delinquent and subject to interest at a rate of 10% per year
25 from the date of filing as a lien in accordance with the act of
26 May 16, 1923 (P.L.207, No.153), referred to as the Municipal
27 Claim and Tax Lien Law.

28 (h) Liens.--An assessment, together with all charges,
29 expenses and fees, including reasonable attorney fees necessary
30 for its collection, shall be a lien upon the real property

1 benefited. The lien shall have the same priority and may be
2 collected in the same manner as a municipal lien in accordance
3 with the Municipal Claim and Tax Lien Law or through a civil
4 action initiated by the administrator.

5 (i) Limited assessment of public property.--An assessment
6 under this section on property held by the Federal Government,
7 the Commonwealth and any other public property shall be limited
8 to an assessment for those services which are directly consumed
9 by the property, including, but not limited to, water service,
10 sewer service and waste collection.

11 Section 444. Amendment of essential services plan.

12 (a) Periodic review.--No less than once per year, the
13 administrator shall meet with the district advisory committee to
14 consider the adequacy of the essential services plan and
15 consider any request for revision of the essential services plan
16 made by the district advisory committee.

17 (b) Filing of amendment.--The administrator may file a
18 proposed essential services plan amendment with the secretary
19 and each member of the district advisory committee at any time.
20 The district advisory committee may request a public meeting to
21 consider the amendment within five days of the filing of a
22 proposed essential services plan amendment.

23 (c) Notice of amendment.--No later than the date that the
24 administrator files the proposed essential services plan
25 amendment, the administrator shall provide notice to the public
26 of the amended essential services plan using the procedure
27 provided for by section 437(c)(1). If the district advisory
28 committee requests a public hearing, the administrator shall
29 schedule a public meeting within 30 days of the date that the
30 proposed essential services plan amendment was filed and provide

1 notice of the public meeting using the procedure provided for by
2 section 437(c)(2).

3 (d) Comment period.--Written comments on the proposed
4 essential services plan amendment may be filed with the
5 administrator. Written comments must be made no later than 15
6 days after the date of filing. Written comments judged by the
7 administrator to have value to the essential services plan may
8 be used to develop revisions for a final essential services plan
9 amendment.

10 (e) Administrator's public meeting.--If a public meeting is
11 scheduled at the request of the district advisory committee, the
12 administrator shall request in writing that the members of the
13 district advisory committee be present at the administrator's
14 meeting. At that meeting, the administrator shall:

15 (1) Present a summary of the proposed essential services
16 plan amendment.

17 (2) Receive public comment on the proposed essential
18 services plan amendment.

19 (3) Allow the members of the district advisory committee
20 to present written and oral comments requesting revisions of
21 the proposed essential services plan amendment.

22 (f) Final essential services plan amendment.--The
23 administrator shall consider all timely submitted written
24 comments, comments presented at the public meeting and requests
25 for revision in the amendment of the publicly presented proposed
26 essential services plan before filing a final essential services
27 plan amendment. In the event that the administrator does not
28 incorporate the requests for revision by the district advisory
29 committee regarding the levels of services provided under the
30 essential services plan or the basis for the calculation of fees

1 assessed under the essential services plan, the administrator
2 shall state in the essential services plan amendment why the
3 requested revisions were not feasible to incorporate in the
4 final essential services plan.

5 (g) Emergency essential services plan amendment.--

6 Notwithstanding the requirements provided by this section for
7 the adoption of a final essential services plan amendment, where
8 the secretary finds that there is or will be an imminent threat
9 to public safety, human health or the environment, the secretary
10 may provide a waiver to the administrator allowing the
11 administrator to immediately publish an emergency essential
12 services plan amendment. An emergency essential services plan
13 amendment shall take effect immediately.

14 (h) Notice of final essential services plan amendment.--The
15 administrator shall provide notice of the publication of the
16 final essential services plan amendment or emergency essential
17 services plan amendment in the manner provided in section 437(c)
18 (1) (i), (ii) and (v). Upon providing notice as required by this
19 chapter, the administrator may execute any contract necessary to
20 administer the essential services plan, as amended.

21 (i) Appeal.--

22 (1) Any person aggrieved by a final essential services
23 plan amendment or emergency essential services plan amendment
24 may appeal the final essential services plan amendment to the
25 court of common pleas within 30 days of notice of the filing
26 of the final essential services plan amendment.

27 (2) For purposes of this section, notice shall
28 constitute the date that the person received actual notice of
29 the final essential services plan amendment, or the date that
30 notice of the filing of the final essential services plan

1 amendment is first published in a newspaper with general
2 circulation serving the area in which the municipality is
3 located.

4 (3) An appeal of a final essential services plan
5 amendment shall be limited to the amended portion of the
6 essential services plan.

7 (4) No appeal of a final essential services plan
8 amendment shall constitute an automatic stay of any portion
9 of the essential services plan.

10 (5) The appeal shall be sustained only where the court
11 finds that the final essential services plan amendment is
12 unlawful or unconstitutional, or the conduct of the
13 administrator is arbitrary or capricious.

14 Section 445. Unincorporated Service District Trust Fund.

15 (a) Establishment.--There is hereby established a special
16 fund in the State Treasury, separate and apart from all other
17 public moneys or funds of the Commonwealth, to be known as the
18 Unincorporated Service District Trust Fund. The purpose of this
19 fund shall be to hold moneys from unincorporated service
20 districts and pay for the expenses and obligations of
21 administrators, unincorporated service districts and the
22 department pursuant to Subchapter C. The department shall
23 allocate funds specific to a district in a restricted account
24 pursuant to section 445.1.

25 (b) Appropriation.--As much as may be necessary of such
26 moneys and interest in the special fund established under
27 subsection (a) is hereby appropriated for the purposes
28 authorized by this subchapter.

29 Section 445.1. Restricted accounts.

30 (a) Establishment.--There is established in the

1 Unincorporated Service District Trust Fund a restricted account
2 for each unincorporated service district. The administrator for
3 each district shall deposit all moneys collected by assessments,
4 delinquent municipal tax receipts, and proceeds from the sale of
5 municipal assets authorized under this subchapter into the
6 restricted account not later than 30 days after collection. Any
7 interest accrued on the account shall be credited to the account
8 for purposes of meeting the requirements of this subchapter. The
9 restricted account shall be used to pay for the expenses and
10 obligations of the administrator and the unincorporated service
11 district. The department may pay for the compensation and
12 expenses of the administrator from the restricted account.

13 (b) Appropriation.--As much as may be necessary of such
14 moneys and interest in the restricted account established under
15 subsection (a) is hereby appropriated for the purposes
16 authorized by this subchapter.

17 Section 446. Audit.

18 The Auditor General shall conduct an annual audit of the
19 district. The audit shall include a review of the services
20 rendered under the essential services plan, the proceeds
21 generated by the assessments levied pursuant to section 443 and
22 all transactions made by the administrator on behalf of the
23 district.

24 Section 447. Merger and consolidation; incorporation of
25 municipal corporation.

26 (a) Merger and consolidation.--

27 (1) For the limited purpose of merging or consolidating
28 with one or more surrounding municipalities under 53 Pa.C.S.
29 Ch. 7 Subch. C (relating to consolidation and merger), the
30 residents of the district may file a petition with the county

1 board of elections as provided in 53 Pa.C.S. §§ 735 (relating
2 to initiative of electors seeking consolidation or merger
3 without new home rule charter) and 735.1 (relating to
4 initiative of electors seeking consolidation or merger with
5 new home rule charter).

6 (2) Residents of the district may be nominated to, and
7 serve on, a commission formed to study merger or
8 consolidation of the district with one or more
9 municipalities.

10 (3) Upon favorable action by the electorate on
11 consolidation or merger, the administrator, in consultation
12 with the district advisory committee, may enter into a merger
13 or consolidation agreement with the governing bodies of other
14 municipalities in accordance with 53 Pa.C.S. § 737 (relating
15 to consolidation or merger agreement) and shall provide for
16 the transition of the district into a consolidated or merged
17 municipality with the same powers and duties as provided by
18 law to governing bodies of municipalities.

19 (4) The administrator may expend district funds to the
20 extent authorized by law for the purpose of merger,
21 consolidation or incorporation as provided in subsection (b).

22 (b) Incorporation as municipality.--If the secretary
23 determines that the district could be incorporated as a viable
24 municipality, the residents of the district may establish or
25 incorporate the territory of the district as a municipality as
26 provided by law.

27 (c) Grants permitted.--The department may issue any loan or
28 grant authorized under Chapter 3 to a merged, consolidated or
29 subsequently incorporated municipality, including the territory
30 of the district to provide transitional assistance.

1 (d) Assets in trust.--All assets conveyed to the
2 Commonwealth to be held in trust, not otherwise transferred
3 under the essential services plan or sold to repay the debt of
4 the former municipality, shall be conveyed to a merged,
5 consolidated or subsequently incorporated municipality,
6 including the territory of the district.

7 (e) Assumption of debt.--All debt obligations held in trust
8 by the Commonwealth on behalf of the former municipality for
9 service by a district shall be assumed by a merged, consolidated
10 or subsequently incorporated municipality, including the
11 territory of the district.

12 Section 25. Chapter 5 of the act is repealed:

13 [CHAPTER 5
14 FUNDING

15 Section 501. Appropriation.

16 The sum of \$5,000,000, appropriated under section 210 of the
17 act of July 1, 1986 (P.L.1776, No.5A), known as the General
18 Appropriation Act of 1986, shall be used to carry out the
19 provisions of this act. The appropriation shall be distributed
20 as follows:

21 (1) \$500,000 shall be used by the department for
22 administrative expenses necessary to carry out the provisions
23 of this act.

24 (2) \$4,500,000 shall be used to provide grants and loans
25 to municipalities determined to be financially distressed
26 pursuant to this act.]

27 Section 26. Chapter 6 heading of the act, added October 20,
28 2011 (P.L.318, No.79), is amended to read:

29 CHAPTER 6
30 FISCAL EMERGENCIES IN [CITIES OF THE

1 THIRD CLASS] MUNICIPALITIES

2 Section 27. Sections 601, 602 and 603 of the act, renumbered
3 and added October 20, 2011 (P.L.318, No.79), are amended to
4 read:

5 Section 601. Definitions.

6 The following words and phrases when used in this chapter
7 shall have the meanings given to them in this section unless the
8 context clearly indicates otherwise:

9 "Authority." A municipal authority, parking authority or any
10 other authority or corporate entity that is directly or
11 indirectly controlled by a distressed [city] municipality or to
12 which a distressed [city] municipality has power of appointment.
13 The term shall not include a joint municipal authority.

14 ["City." A city of the third class.]

15 "Debt obligations." Any obligation to pay money, including
16 amounts owed for payments relating to lease rental debt, debt
17 service, bonds, notes, guarantees for bonds or notes, trust
18 indentures, contracts or other agreements.

19 "Distressed [city] municipality." A [city] municipality
20 which has been determined to be financially distressed under
21 section 203(f).

22 "Fiscal emergency." A determination made by the Governor
23 under section 602(b).

24 "Insolvent." Unable to meet all financial obligations as
25 they become due, including payment of debt obligations.

26 "Municipality." A municipality as defined in section 103,
27 other than a city of the first class.

28 "Vital and necessary services." Basic and fundamental
29 municipal services, including any of the following:

- 30 (1) Police and fire services.

- 1 (2) Ambulance and rescue services.
- 2 (3) Water supply and distribution.
- 3 (4) Wastewater services.
- 4 (5) Refuse collection and disposal.
- 5 (6) Snow removal.
- 6 (7) Payroll and pension obligations.
- 7 (8) Fulfillment of payment of debt obligations or any
- 8 other financial obligations.

9 Section 602. Declaration of fiscal emergency.

10 (a) Fiscal emergency.--The Governor determines a fiscal
11 emergency exists if the distressed [city] municipality:

12 (1) (i) is insolvent or is projected to be insolvent
13 within 180 days or less; or

14 (ii) is unable to ensure the continued provision of
15 vital and necessary services; and

16 (2) (i) has failed to adopt or implement the
17 coordinator's plan in accordance with Subchapter C or C.1
18 of Chapter 2; or

19 (ii) has failed to adopt or implement an alternative
20 plan that the secretary has approved under section 246.

21 (b) Governor.--Upon making a determination that a state of
22 fiscal emergency exists, the Governor may declare a state of
23 fiscal emergency within the distressed [city] municipality.

24 Immediately upon making the declaration, the Governor shall:

25 (1) Provide written notice of the declaration to the
26 governing body and, if applicable, the chief executive
27 officer of the distressed [city] municipality along with a
28 concise statement of facts supporting the determination.

29 (2) Direct the secretary to, within ten days of the
30 Governor's declaration, develop an emergency action plan to

1 ensure that vital and necessary services are maintained
2 within the [city] municipality during the state of fiscal
3 emergency.

4 (c) Secretary.--In developing the emergency action plan, the
5 secretary shall consider the financial plan prepared by the
6 coordinator under Subchapter C of Chapter 2 and any other
7 available plan or information the secretary deems appropriate
8 and may employ financial or legal experts to assist in
9 addressing the fiscal emergency. Notwithstanding any law to the
10 contrary, the employment of such experts shall not be subject to
11 contractual competitive bidding procedures.

12 Section 603. Notification by the secretary.

13 (a) Notice.--Upon completion of the emergency action plan,
14 the secretary shall cause the plan to be posted on the
15 department's publicly accessible Internet website and shall
16 provide written notice of the emergency action plan by overnight
17 delivery service, providing proof of receipt, to all members of
18 the governing body and, if applicable, the chief executive
19 officer of the distressed [city] municipality.

20 (b) Publication.--The secretary shall publish once in a
21 newspaper of general circulation notice that the emergency
22 action plan has been completed. The notice shall specify the
23 publicly accessible Internet address of the department's website
24 where the plan is posted.

25 Section 28. Sections 604, 605, 606, 607, 608, 609 and 610 of
26 the act, added October 20, 2011 (P.L.318, No.79), are amended to
27 read:

28 Section 604. Powers of the Governor.

29 (a) Powers.--During the state of fiscal emergency, the
30 Governor may exercise the authority of the elected or appointed

1 officials of the distressed [city] municipality or authority as
2 necessary to ensure the provision of vital and necessary
3 services and may delegate the authority to the secretary or a
4 designee of the secretary. The emergency powers of the Governor
5 shall include the following:

6 (1) The power to collect funds payable to the distressed
7 [city] municipality and authority and use those funds to pay
8 for vital and necessary services.

9 (2) The power to obtain emergency financial aid for the
10 distressed [city] municipality and authority under Chapter 3
11 to pay for vital and necessary services.

12 (3) The power to enter into contracts and agreements on
13 behalf of the distressed [city] municipality and authority to
14 pay for vital and necessary services.

15 (4) The power to modify the emergency action plan as
16 necessary to ensure the provision of vital and necessary
17 services.

18 (5) Any other power of the elected or appointed
19 officials of the distressed [city] municipality or authority
20 to ensure the provision of vital and necessary services.

21 (b) Orders.--The Governor may issue an order to an elected
22 or appointed official of the distressed [city] municipality or
23 an authority to implement any provision of the emergency action
24 plan or refrain from taking any action that would interfere with
25 the powers granted to the Governor or the goals of the plan. An
26 order issued under this subsection shall be enforceable under
27 section 606.

28 (c) Authorization prohibited.--Neither this chapter nor the
29 emergency action plan shall be interpreted to authorize the
30 Governor to:

1 (1) Unilaterally levy taxes.

2 (2) Unilaterally abrogate, alter or otherwise interfere
3 with a lien, charge, covenant or relative priority that is:

4 (i) held by a holder of a debt obligation of a
5 distressed [city] municipality; and

6 (ii) granted by the contract, law, rule or
7 regulation governing the debt obligation.

8 (3) Unilaterally impair or modify existing bonds, notes,
9 municipal securities or other lawful contractual or legal
10 obligations of the distressed [city] municipality or
11 authority, except as otherwise ordered by a court of
12 competent jurisdiction.

13 (4) Authorize the use of the proceeds of the sale,
14 lease, conveyance, assignment or other use or disposition of
15 the assets of the distressed [city] municipality or
16 authorities in a manner contrary to section 707.

17 (5) Pledge the full faith and credit of the
18 Commonwealth.

19 Section 605. Elected and appointed officials.

20 During a fiscal emergency, the authorities and appointed and
21 elected officials of the distressed [city] municipality shall
22 continue to carry out the duties of their respective offices,
23 except that no decision or action shall conflict with an
24 emergency action plan, order or exercise of power by the
25 Governor under section 604.

26 Section 606. Mandamus.

27 The Governor may petition Commonwealth Court to issue a writ
28 of mandamus upon any elected or appointed official of the
29 distressed [city] municipality or authority to secure compliance
30 with an order issued under section 604(b). The court shall grant

1 the relief requested within 14 days of the filing of the
2 petition if it determines that the order was issued in
3 compliance with this chapter.

4 Section 607. Consent agreement.

5 (a) Negotiations.--Within eight days of the declaration of a
6 fiscal emergency, the governing body and, if applicable, the
7 chief executive officer of the distressed [city] municipality
8 shall convene a special public meeting to negotiate a consent
9 agreement. The meeting shall be attended by the secretary or
10 secretary's designee. Negotiations among creditors and any of
11 the parties in this subsection shall be conducted in accordance
12 with section 223(b).

13 (b) Contents.--

14 (1) The consent agreement shall incorporate a plan
15 setting forth measures designed to provide long-term
16 financial stability to the distressed [city] municipality
17 after the termination of the fiscal emergency.

18 (2) The consent agreement shall include all of the
19 following:

20 (i) Continued provision of vital and necessary
21 services.

22 (ii) Payment of the lawful financial obligations of
23 the distressed [city] municipality and authority. This
24 subparagraph includes debt obligations, municipal
25 securities, lease rental obligations, legal obligations
26 and consensual modifications of existing obligations,
27 except as otherwise ordered by a court of competent
28 jurisdiction.

29 (iii) Timely deposit of required payments to the
30 pension fund for the distressed [city] municipality and

1 each authority or the fund in which the distressed [city]
2 municipality and each authority participates.

3 (iv) Legislative and administrative actions to be
4 taken by the elected or appointed officials of the
5 distressed [city] municipality during the term of the
6 consent agreement.

7 (3) The consent agreement may include:

8 (i) The sale, lease, conveyance, assignment or other
9 use or disposition of the assets of the distressed [city]
10 municipality or authority.

11 (ii) Approval, modification, rejection,
12 renegotiation or termination of contracts or agreements
13 of the distressed [city] municipality or authorities.

14 (iii) Execution of new contracts or agreements.

15 (4) The consent agreement may not include any of the
16 following:

17 (i) Projections of revenue from a tax or tax rate
18 not currently authorized by law.

19 (ii) Provisions that unilaterally abrogate, alter or
20 otherwise interfere with a lien, charge, covenant or
21 relative priority, that is:

22 (A) held by a holder of a debt obligation of a
23 distressed [city] municipality; and

24 (B) granted by the contract, law, rule or
25 regulation governing the debt obligation.

26 (iii) Provisions that unilaterally impair or modify
27 existing bonds, notes, municipal securities or other
28 lawful contractual or legal obligations of the distressed
29 [city] municipality or authority, except as otherwise
30 ordered by a court of competent jurisdiction.

1 (iv) Provisions that authorize the use of the
2 proceeds of the sale, lease, conveyance, assignment or
3 other use or disposition of the assets of the distressed
4 [city] municipality or authorities in a manner contrary
5 to section 707.

6 (v) Any increase in the rate of an earned income tax
7 imposed on nonresident workers.

8 (c) Ordinance.--Notwithstanding any law to the contrary, the
9 following shall apply:

10 (1) Upon approval by a majority vote of the governing
11 body of the distressed [city] municipality, the consent
12 agreement shall be presented to the secretary within 20 days
13 of the declaration of fiscal emergency.

14 (2) The secretary shall approve or disapprove the
15 consent agreement within three days.

16 (3) If the secretary determines that the consent
17 agreement is sufficient to overcome the distressed [city's]
18 municipality's financial distress and approves the agreement,
19 the governing body shall enact the consent agreement in the
20 form of an ordinance within seven days of approval by the
21 secretary.

22 (4) The ordinance shall provide that, in the event of a
23 breach or unilateral modification of the consent decree by
24 the governing body or an elected or appointed official, the
25 Governor may institute or reinstitute proceedings under
26 Chapter 7.

27 (d) Consent to proceedings under Chapter 7.--In addition to
28 breach or modification of the consent agreement under subsection
29 (c), the following shall be deemed consent to proceedings under
30 Chapter 7:

1 (1) Failure of the governing body of the distressed
2 [city] municipality to convene or the failure of a quorum of
3 the governing body to participate in a special public
4 meeting required by subsection (a).

5 (2) Failure of the governing body or, if applicable, the
6 chief executive officer to enact a valid ordinance under
7 subsection (c).

8 (3) Failure of the distressed [city] municipality to
9 comply with the consent agreement or provision of an
10 ordinance enacted under subsection (c).

11 (4) Enactment by the distressed [city] municipality of
12 an amendment to the ordinance enacted in subsection (c) in
13 violation of subsection (e).

14 (e) Amendment.--The ordinance may be amended upon the
15 approval of the secretary.

16 (f) Collective bargaining.--A collective bargaining
17 agreement or arbitration settlement executed following the
18 enactment of an ordinance under this section may not in any
19 manner violate, expand or diminish the provisions of the consent
20 agreement.

21 Section 608. Termination of fiscal emergency and suspension of
22 powers.

23 (a) **[Financial]** FISCAL emergency.--A fiscal emergency shall <--
24 end upon certification by the secretary that the [city]-- <--
25 municipality is no longer financially distressed.] MUNICIPALITY: <--

26 (1) IS SOLVENT AND IS NOT PROJECTED TO BE INSOLVENT
27 WITHIN 180 DAYS OR LESS; AND

28 (2) IS ABLE TO ENSURE THE CONTINUED PROVISION OF VITAL
29 AND NECESSARY SERVICES AFTER THE TERMINATION OF THE FISCAL
30 EMERGENCY.

1 (b) Governor's powers.--The emergency powers of the Governor
2 under this chapter shall be suspended upon the enactment and
3 continued implementation of an ordinance under section 607 or
4 entry of a judicial order appointing a receiver under section
5 702.

6 Section 609. Restrictions.

7 (a) Earned income tax on nonresidents.--A distressed [city]
8 municipality subject to this chapter or Chapter 7 may not
9 petition a court of common pleas for an increase in the rate of
10 an earned income tax imposed on nonresident workers under
11 section 123(c) [until the secretary terminates the distress <--
12 status of the {city} ~~municipality~~ under section 253] UNLESS THE <--
13 CONDITIONS UNDER SECTION 710.1(C) ARE MET.

14 (b) Municipal debt adjustment.--A distressed [city]
15 municipality subject to this chapter or Chapter 7 may not file a
16 municipal debt adjustment action under the Bankruptcy Code (11
17 U.S.C. § 101 et seq.) except to the extent authorized under
18 Chapter 7.

19 Section 610. Applicability.

20 (a) Statement.--

21 (1) This chapter shall apply only to distressed [cities]
22 municipalities.

23 (2) Except as set forth in subsection (b), nothing in
24 this chapter is intended to limit or otherwise abrogate the
25 applicability of any other part of this act.

26 (b) Conflict.--If there is a conflict between a provision of
27 this chapter and any other provision of this act, the provision
28 of this chapter shall prevail.

29 Section 29. Chapter 7 heading of the act, added October 20,
30 2011 (P.L.318, No.79), is amended to read:

1 CHAPTER 7

2 RECEIVERSHIP IN [CITIES OF THE
3 THIRD CLASS] MUNICIPALITIES

4 Section 30. Sections 701, 702, 703, 704, 705(g), 706, 707,
5 ~~708, 709, 711(a) and (b) and 712(a)(1)~~ AND 709 of the act, added <--
6 October 20, 2011 (P.L.318, No.79), are amended to read:

7 Section 701. Definitions.

8 The following words and phrases when used in this chapter
9 shall have the meanings given to them in this section unless the
10 context clearly indicates otherwise:

11 "Authority." A municipal authority, parking authority or any
12 other authority or corporate entity that is directly or
13 indirectly controlled by a distressed [city] municipality or to
14 which a distressed [city] municipality has power of appointment.
15 The term shall not include a joint municipal authority.

16 ["City." A city of the third class.]

17 "Debt obligations." Any obligation to pay money, including
18 amounts owed for payments relating to lease rental debt, debt
19 service, bonds, notes, guarantees for bonds or notes, trust
20 indentures, contracts or other agreements.

21 "Distressed [city] municipality." A [city] municipality
22 which has been determined to be financially distressed under
23 section 203(f).

24 "Fiscal emergency." A determination made by the Governor
25 under section 602(b) or as provided in Subchapter C.1 of Chapter
26 2.

27 "Insolvent." Unable to meet all financial obligations as
28 they become due, including payment of debt obligations.

29 "Vital and necessary services." Basic and fundamental
30 municipal services, including any of the following:

- 1 (1) Police and fire services.
- 2 (2) Ambulance and rescue services.
- 3 (3) Water supply and distribution.
- 4 (4) Wastewater services.
- 5 (5) Refuse collection and disposal.
- 6 (6) Snow removal.
- 7 (7) Payroll and pension obligations.
- 8 (8) Fulfillment of payment of debt obligations or any
- 9 other financial obligations.

10 Section 702. Receivership.

11 (a) Receiver.--Following the issuance of a declaration of
12 fiscal emergency under section 602(b) or as provided in
13 Subchapter C.1 of Chapter 2, the Governor may direct the
14 secretary to file a petition in Commonwealth Court to appoint
15 the individual named in the petition as a receiver for the
16 distressed [city] municipality. The court shall have no
17 authority to appoint anyone other than the individual named in
18 the petition as the receiver.

19 (b) Service and notice.--

- 20 (1) The secretary shall serve the petition upon:
 - 21 (i) the governing body of the distressed [city]
 - 22 municipality;
 - 23 (ii) the chief executive officer of the distressed
 - 24 [city] municipality; and
 - 25 (iii) the governing body of each authority.
- 26 (2) The secretary must publish notice of the filing of
27 the petition once in a newspaper of general circulation.

28 (c) Hearing.--Upon notification of the Governor of the
29 failure of the distressed [city] municipality to adopt a valid
30 ordinance under section 607 or a notification by the secretary

1 as provided in Subchapter C.1 of Chapter 2, Commonwealth Court
2 shall conduct a hearing within 15 days on the petition.

3 (d) Determination.--No later than 60 days following the
4 filing of a petition under this section, the court shall issue
5 an order under subsection (e) if it finds by a preponderance of
6 the evidence that all of the following apply:

7 (1) Thirty days have passed since the declaration of a
8 fiscal emergency.

9 (2) There has been a failure by:

10 (i) the governing body of the distressed [city]
11 municipality to adopt an ordinance under section 607;

12 (ii) the governing body of the distressed [city]
13 municipality to implement an ordinance under section 607;

14 [or]

15 (iii) an elected or appointed official of the
16 distressed city or authority to strictly comply with an
17 order issued by the Governor under section 604[.]; or

18 (iv) (Reserved).

19 (3) A fiscal emergency under section 602(a) or
20 Subchapter C.1 of Chapter 2 continues to exist.

21 (e) Order.--An order issued under this subsection shall:

22 (1) set forth the findings under subsection (d);

23 (2) grant the petition and declare the distressed [city]
24 municipality to be in receivership;

25 (3) appoint the individual named in the petition to be
26 the receiver for a period not to exceed two years, subject to
27 extension under section 710(b);

28 (4) direct the receiver to develop a recovery plan
29 within 30 days under section 703 and submit it to the court,
30 the secretary, the governing body and, if applicable, the

1 chief executive officer of the distressed [city]

2 municipality; and

3 (5) require and empower the receiver to implement the
4 emergency action plan developed by the secretary under
5 section 602 until a recovery plan developed by the receiver
6 is approved by the court under section 703.

7 (f) Additional actions.--

8 (1) The Governor may direct the secretary to file a
9 petition in Commonwealth Court to appoint an individual named
10 in the petition as a receiver for the distressed [city]
11 municipality if the distressed [city] municipality fails to
12 comply with or has amended the ordinance without the approval
13 of the secretary under section 607(d)(3) or (4).

14 (2) The court shall conduct a hearing on the petition
15 under paragraph (1) within 15 days of the filing of the
16 petition.

17 (3) No later than 60 days following the filing of the
18 petition under paragraph (1), the court shall issue an order
19 under subsection (e) if it finds by a preponderance of the
20 evidence that the distressed [city] municipality has failed
21 to comply with section 607(d)(3) or (4).

22 Section 703. Recovery plan.

23 (a) Issuance.--Within 30 days of the appointment of the
24 receiver, the recovery plan required under section 702(e)(4)
25 shall be furnished to Commonwealth Court, the secretary and the
26 governing body and, if applicable, the chief executive officer
27 of the distressed [city] municipality.

28 (b) Contents.--The receiver shall consider the plan prepared
29 by the coordinator under section 241 and any other existing
30 alternate plans in the development of the recovery plan. The

1 following shall apply:

2 (1) The recovery plan shall provide for all of the
3 following:

4 (i) Continued provision of vital and necessary
5 services.

6 (ii) Payment of the lawful financial obligations of
7 the distressed [city] municipality and authorities. This
8 subparagraph includes debt obligations, municipal
9 securities, lease rental obligations, legal obligations
10 and consensual modifications of existing obligations.

11 (iii) Timely deposit of required payments to the
12 pension fund in which the distressed [city] municipality
13 and each authority participates.

14 (2) The recovery plan may include:

15 (i) the sale, lease, conveyance, assignment or other
16 use or disposition of the assets of the distressed [city]
17 municipality or authority;

18 (ii) the approval, modification, rejection,
19 renegotiation or termination of contracts or agreements
20 of the distressed [city] municipality or authorities,
21 except to the extent prohibited by the Constitutions of
22 the United States and Pennsylvania;

23 (iii) the execution of new contracts or agreements;
24 and

25 (iv) other information the receiver deems
26 appropriate.

27 (c) Restrictions.--The recovery plan may not do any of the
28 following:

29 (1) Unilaterally levy taxes.

30 (2) Unilaterally abrogate, alter or otherwise interfere

1 with a lien, charge, covenant or relative priority that is:

2 (i) held by a holder of a debt obligation of a
3 distressed [city] municipality; and

4 (ii) granted by the contract, law, rule or
5 regulation governing the debt obligation.

6 (3) Unilaterally impair or modify existing bonds, notes,
7 municipal securities or other lawful contractual or legal
8 obligations of the distressed [city] municipality or
9 authority, except as otherwise ordered by a court of
10 competent jurisdiction.

11 (4) Authorize the use of the proceeds of the sale,
12 lease, conveyance, assignment or other use or disposition of
13 the assets of the distressed [city] municipality or authority
14 in a manner contrary to section 707.

15 (d) Confirmation.--Commonwealth Court shall conduct a
16 hearing on the recovery plan within 30 days of the receipt of
17 the plan from the receiver. The court shall confirm the plan
18 within 60 days of the receipt of the plan unless it finds clear
19 and convincing evidence that the plan is arbitrary, capricious
20 or wholly inadequate to alleviate the fiscal emergency in the
21 distressed [city] municipality.

22 (e) Modification of plan.--The receiver shall notify the
23 Commonwealth Court of any modification to the plan. The court
24 may conduct a hearing on the modification within 30 days of its
25 receipt. The court shall confirm the modification within 60 days
26 of receipt of notification of the modification unless it finds
27 clear and convincing evidence that the recovery plan as modified
28 is arbitrary, capricious or wholly inadequate to alleviate the
29 fiscal emergency in the distressed [city] municipality.

30 Section 704. Confirmation.

1 (a) Effect of confirmation.--The confirmation of the
2 recovery plan and any modification to the receiver's plan under
3 section 703 shall have the effect of:

4 (1) imposing on the elected and appointed officials of
5 the distressed [city] municipality or an authority a
6 mandatory duty to undertake the acts set forth in the
7 recovery plan;

8 (2) suspending the authority of the elected and
9 appointed officials of the distressed [city] municipality or
10 an authority to exercise power on behalf of the distressed
11 [city] municipality or authority pursuant to law, charter,
12 ordinance, rule or regulation to the extent that the power
13 would interfere with the powers granted to the receiver or
14 the goals of the recovery plan; and

15 (3) superseding the emergency action plan developed by
16 the secretary under section 602.

17 (b) Form of government.--Confirmation of the recovery plan
18 and any modification to the plan under section 703 shall not be
19 construed to:

20 (1) change the form of government of the distressed
21 [city] municipality or an authority; or

22 (2) except as set forth in subsection (a), affect powers
23 and duties of elected and appointed officials of the
24 distressed [city] municipality or an authority.

25 (c) Collective bargaining.--A collective bargaining
26 agreement or arbitration settlement executed after confirmation
27 of a recovery plan may not, in any manner, violate, expand or
28 diminish the provisions of the recovery plan.

29 Section 705. Receiver.

30 * * *

1 (g) Liability.--The receiver shall not be liable personally
2 for any obligations of the distressed [city] municipality or
3 authority. It is declared to be the intent of the General
4 Assembly that the receiver shall enjoy sovereign and official
5 immunity as provided in 1 Pa.C.S. § 2310 (relating to sovereign
6 immunity reaffirmed; specific waiver) and shall remain immune
7 from suit except as provided by and subject to the provisions of
8 42 Pa.C.S. Ch. 85 Subchs. A (relating to general provisions) and
9 B (relating to actions against Commonwealth parties).
10 Section 706. Powers, duties and prohibited actions.

11 (a) Powers and duties.--Notwithstanding any other provision
12 of law, the receiver shall have the following powers and duties:

13 (1) To require the distressed [city] municipality or
14 authority to take actions necessary to implement the recovery
15 plan under section 703.

16 (2) To modify the recovery plan as necessary to achieve
17 financial stability of the distressed [city] municipality and
18 authorities in accordance with section 703.

19 (3) To require the distressed [city] municipality or
20 authority to negotiate intergovernmental cooperation
21 agreements between the distressed [city] municipality and
22 other political subdivisions in order to eliminate and avoid
23 deficits, maintain sound budgetary practices and avoid
24 interruption of municipal services.

25 (4) To submit quarterly reports to the governing body
26 and, if applicable, the chief executive officer of the
27 distressed [city] municipality and to the department. The
28 reports shall be posted on [the] a publicly accessible
29 Internet website [for] maintained by the distressed [city]
30 municipality.

1 (5) To require the distressed [city] municipality or
2 authority to cause the sale, lease, conveyance, assignment or
3 other use or disposition of the distressed [city's]
4 municipality's or authority's assets in accordance with
5 section 707.

6 (6) To approve, disapprove, modify, reject, terminate or
7 renegotiate contracts and agreements with the distressed
8 [city] municipality or authority, except to the extent
9 prohibited by the Constitutions of the United States and
10 Pennsylvania.

11 (7) To direct the distressed [city] municipality or
12 authority to take any other action to implement the recovery
13 plan.

14 (8) To attend executive sessions of the governing body
15 of the distressed [city] municipality or authority and make
16 reports to the public on implementation of the recovery plan.

17 (9) [After July 1, 2012, to] To file a municipal debt
18 adjustment action under the Bankruptcy Code (11 U.S.C. § 101
19 et seq.) and to act on the [city's] municipality's behalf in
20 the proceeding. The power under this paragraph shall only be
21 exercised upon the written authorization of the secretary.
22 The filing of a municipal debt adjustment action under this
23 paragraph and any plan of the receiver accepted by the
24 Federal court shall be considered a modification of the
25 recovery plan, except that the modification shall not be
26 subject to judicial review under section 709. A recovery plan
27 submitted to and approved by the Federal court under a
28 Federal municipal debt adjustment action may include Federal
29 remedies not otherwise available under this chapter.

30 (10) To meet and consult with the advisory committee

1 under section 711.

2 (11) To employ financial or legal experts deemed
3 necessary to develop and implement the recovery plan.
4 Notwithstanding any law to the contrary, the employment of
5 such experts shall not be subject to contractual competitive
6 bidding procedures.

7 (b) Authorization prohibited.--Neither this chapter nor the
8 recovery plan shall be interpreted to authorize the receiver to
9 do any of the following:

10 (1) Unilaterally levy taxes.

11 (2) Unilaterally abrogate, alter or otherwise interfere
12 with a lien, charge, covenant or relative priority that is:

13 (i) held by a holder of a debt obligation of a
14 distressed [city] municipality; and

15 (ii) granted by the contract, law, rule or
16 regulation governing the debt obligation.

17 (3) Unilaterally impair or modify existing bonds, notes,
18 municipal securities or other lawful contractual or legal
19 obligations of the distressed [city] municipality or
20 authority, except as otherwise ordered by a court of
21 competent jurisdiction.

22 (4) Authorize the use of the proceeds of the sale,
23 lease, conveyance, assignment or other use or disposition of
24 the assets of the distressed [city] municipality or authority
25 in a manner contrary to section 707.

26 Section 707. Use or disposition of assets.

27 (a) Use of proceeds.--The proceeds from any sale, lease,
28 conveyance, assignment or other use or disposition of assets of
29 the distressed [city] municipality or authority shall be applied
30 to the payment of outstanding debt obligations owed by the

1 distressed [city] municipality or authority, subject to any
2 lien, charge, covenant, restriction, contract, law, rule or
3 regulation, that encumbers or is otherwise applicable to the
4 assets. Proceeds remaining after payment of outstanding debt
5 obligations owed by the distressed [city] municipality or
6 authority may be used by the receiver to restructure or provide
7 escrow for the payment of future debt obligations or to meet
8 operating and capital needs of the distressed [city]
9 municipality or authority.

10 (b) Prohibitions.--Nothing under this section shall be
11 construed to authorize the receiver to unilaterally abrogate,
12 alter or otherwise interfere with a lien, charge, covenant or
13 relative priority that is:

14 (1) held by a holder of a debt obligation of a
15 distressed [city] municipality; and

16 (2) granted by the contract, law, rule or regulation
17 governing the debt obligation.

18 Section 708. Elected and appointed officials.

19 (a) Orders.--The receiver may issue an order to an elected
20 or appointed official of the distressed [city] municipality or
21 an authority to:

22 (1) implement any provision of the recovery plan; and

23 (2) refrain from taking any action that would interfere
24 with the powers granted to the receiver or the goals of the
25 recovery plan.

26 (b) Enforcement.--An order issued under subsection (a) shall
27 be enforceable under section 709.

28 Section 709. Judicial actions.

29 (a) Action by receiver.--The receiver may petition
30 Commonwealth Court to issue a writ of mandamus upon any elected

1 or appointed official of the distressed [city] municipality or
2 authority to secure compliance with an order issued under
3 section 708. The court shall grant or deny the relief within 14
4 days of the filing of the petition. The court shall grant the
5 relief requested if it determines that the order was issued in
6 compliance with this chapter.

7 (b) Action by elected or appointed officials.--Any elected
8 or appointed official of a distressed [city] municipality or
9 authority may petition Commonwealth Court to enjoin any action
10 of the receiver that is contrary to this chapter.

11 SECTION 30.1. SECTION 710 OF THE ACT IS AMENDED BY ADDING A <--
12 SUBSECTION TO READ:

13 SECTION 710. TERMINATION OF RECEIVERSHIP.

14 * * *

15 (C) TERMINATION OF FISCAL EMERGENCY.--NOTWITHSTANDING THE
16 DATE OF EXPIRATION OF RECEIVERSHIP UNDER SUBSECTION (A) OR AN
17 EXTENSION OF RECEIVERSHIP UNDER SUBSECTION (B), THE RECEIVERSHIP
18 SHALL TERMINATE UPON THE SECRETARY'S TERMINATION OF A FISCAL
19 EMERGENCY UNDER SECTION 608(A).

20 SECTION 31. THE ACT IS AMENDED BY ADDING A SECTION TO READ:
21 SECTION 710.1. CONTINUATION OF RECOVERY PLAN.

22 (A) ADMINISTRATIVE DETERMINATION REQUIRED.--WITHIN 30 DAYS
23 OF THE TERMINATION OR EXPIRATION OF THE RECEIVERSHIP UNDER
24 SECTION 710, THE SECRETARY SHALL ISSUE ONE OF THE FOLLOWING
25 ADMINISTRATIVE DETERMINATIONS:

26 (1) CONDITIONS WITHIN THE MUNICIPALITY WARRANT A
27 TERMINATION IN STATUS IN ACCORDANCE WITH SECTION 253; OR

28 (2) THE MUNICIPALITY CONTINUES TO BE FINANCIALLY
29 DISTRESSED.

30 (B) APPOINTMENT OF COORDINATOR.--UPON A DETERMINATION UNDER

1 SUBSECTION (A) (2), A RECOVERY PLAN ADOPTED UNDER SECTION 703
2 SHALL REMAIN IN EFFECT AND BE DEEMED TO BE A PLAN ADOPTED UNDER
3 CHAPTER 2. THE SECRETARY SHALL APPOINT A COORDINATOR IN
4 ACCORDANCE WITH SECTION 221. THE RECEIVER MAY BE APPOINTED AS
5 COORDINATOR. THE COORDINATOR SHALL IMPLEMENT THE RECOVERY PLAN
6 UNDER SECTION 247(A) SUBJECT TO THE FOLLOWING:

7 (1) THE PLAN SHALL BE SUBJECT TO AMENDMENT IN ACCORDANCE
8 WITH SECTION 249, PROVIDED THAT NOTHING IN THIS SECTION SHALL
9 AUTHORIZE THE IMPAIRMENT OF EXISTING LAWFUL CONTRACTUAL OR
10 LEGAL OBLIGATIONS OF THE DISTRESSED MUNICIPALITY EXCEPT WHERE
11 OTHERWISE PERMITTED BY LAW.

12 (2) THE COORDINATOR MAY EXERCISE THE SAME POWERS AND
13 DUTIES OF THIS CHAPTER AS A RECEIVER FOR THE PURPOSES OF
14 ISSUING ORDERS UNDER SECTION 708, AND SEEK ENFORCEMENT OF
15 SUCH ORDERS UNDER SECTION 709. THE COMMONWEALTH COURT SHALL
16 RETAIN JURISDICTION TO HEAR AN ACTION UNDER THIS PARAGRAPH.

17 (3) THE PLAN SHALL TERMINATE AS PROVIDED IN SECTION
18 254(B) (2), SUBJECT TO FURTHER PROCEEDINGS IN ACCORDANCE WITH
19 CHAPTER 2, SUBCHAPTER C.1.

20 (C) CONDITIONS FOR INCREASING TAXES ON NONRESIDENT INCOME.--
21 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A MUNICIPALITY
22 EXITING RECEIVERSHIP AND SUBJECT TO A DETERMINATION UNDER
23 SUBSECTION (A) (2) SHALL BE SUBJECT TO THE SAME REQUIREMENTS AS A
24 CITY OF THE SECOND CLASS A UNDER SECTION 123(C) (3) BEFORE BEING
25 AUTHORIZED TO INCREASE THE RATE OF TAXATION ON NONRESIDENT
26 INCOME.

27 SECTION 32. SECTIONS 711(A) AND (B) AND 712(A) (1) OF THE
28 ACT, ADDED OCTOBER 20, 2011 (P.L.312, NO.79), ARE AMENDED TO
29 READ:

30 Section 711. Municipal financial recovery advisory committee.

1 (a) Establishment.--[There is established a] A municipal
2 financial recovery advisory committee is established to meet and
3 consult with the receiver in carrying out the duties under this
4 chapter. The sole function of the advisory committee shall be to
5 provide recommendations and feedback to the receiver on the
6 implementation of the recovery plan.

7 (b) Composition.--The advisory committee established under
8 subsection (a) shall be comprised of the following:

9 (1) The chief executive officer, if any, of the
10 distressed [city] municipality or a designee.

11 (2) The president of the governing body of the
12 distressed [city] municipality or a designee.

13 (3) One member appointed by the county commissioners of
14 the county where the distressed [city] municipality is
15 located.

16 (4) One member appointed by the Governor.

17 * * *

18 Section 712. Applicability.

19 (a) Statement.--

20 (1) This chapter shall apply only to distressed [cities]
21 municipalities.

22 * * *

23 ~~Section 31. The addition of section 122(c) of the act shall~~ <--

24 SECTION 33. THIS ACT SHALL APPLY AS FOLLOWS: <--

25 (1) THE ADDITION OF SECTION 122(C) OF THE ACT SHALL
26 apply to any and all regulations in effect on the effective
27 date of this section.

28 (2) THE AMENDMENT OR ADDITION OF SECTIONS 608, 710 AND <--
29 710.1(A) AND (B) OF THE ACT SHALL NOT APPLY TO A MUNICIPALITY
30 THAT ENTERED RECEIVERSHIP PRIOR TO THE EFFECTIVE DATE OF THIS

1 SECTION AND SHALL NOT SUPERSEDE OR CONSTITUTE GROUNDS TO
2 MODIFY ANY ORDER OF COURT ISSUED PRIOR TO THE EFFECTIVE DATE
3 OF THIS SECTION.

4 Section ~~32~~ 34. This act shall take effect in 60 days. <--